

Deed Book 41476 Pg 692
Filed and Recorded Dec-06-2005 11:55am
2005-0427560
Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia

Return to:
Darryl R. Moss, Esq.
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

DECLARATION OF CONDOMINIUM ^{BB}

FOR

ATLANTIC 17TH, A RESIDENTIAL CONDOMINIUM

WEISSMAN, NOWACK, CURRY, & WILCO, P.C.
Attorneys

One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500

COPYRIGHT © 2005. WEISSMAN, NOWACK, CURRY & WILCO, P.C. All rights reserved. This Declaration may be used only in connection with the property at Atlantic 17th, A Residential Condominium and the operation of the Atlantic 17th Residential Condominium Association, Inc.

TABLE OF CONTENTS

1.	NAME.....	1
2.	DEFINITIONS.....	1
3.	LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS	5
4.	UNITS AND BOUNDARIES.....	6
5.	COMMON ELEMENTS.....	7
6.	LIMITED COMMON ELEMENTS.....	7
7.	ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.....	9
8.	ALLOCATION OF LIABILITY FOR COMMON EXPENSES	9
9.	ASSOCIATION RIGHTS AND RESTRICTIONS	10
10.	ASSESSMENTS	11
11.	INSURANCE.....	14
12.	REPAIR AND RECONSTRUCTION.....	15
13.	ARCHITECTURAL CONTROLS	16
14.	USE RESTRICTIONS	19
15.	LEASING.....	26
16.	TRANSFER OR SALE OF UNITS.....	30
17.	MAINTENANCE RESPONSIBILITY	31
18.	MORTGAGEE'S RIGHTS.....	34
19.	GENERAL PROVISIONS.....	37
20.	EMINENT DOMAIN.....	45
21.	EASEMENTS.....	45
22.	AMENDMENTS.....	47
23.	SEVERABILITY.....	49
24.	DECLARANT RIGHTS	49
25.	EXPANSION OF THE CONDOMINIUM	50
26.	PREPARER	50

EXHIBITS

DESCRIPTION OF SUBMITTED PROPERTY	"A"
UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND LIABILITIES FOR COMMON EXPENSES	"B"
ADDITIONAL PROPERTY	"C"
PARKING SPACE ASSIGNMENTS	"D"
STORAGE SPACE ASSIGNMENTS	"E"
BYLAWS	"F"

STATE OF GEORGIA
COUNTY OF FULTON

DECLARATION OF CONDOMINIUM

FOR

ATLANTIC 17TH, A RESIDENTIAL CONDOMINIUM

THIS DECLARATION is made on the date set forth below by WN ATLANTIC PROPERTIES, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant");

WITNESETH

WHEREAS, Declarant is the owner of the real property, which is located in Fulton County, Georgia and is described in Exhibit "A" attached hereto and incorporated herein by this reference;

WHEREAS, the property being submitted to condominium form of ownership pursuant to this Declaration is a portion of the property identified as the Residential Component of Atlantic 17th, a Master Condominium and all limited common elements assigned to said Residential Component, as more specifically set forth in that certain Declaration of Condominium for Atlantic 17th, A Master Condominium dated December 6, 2005, and recorded in Deed Book 41476, Page 605, et seq., Fulton County, Georgia records (hereinafter referred to as the "Master Declaration");

WHEREAS, the Residential Component is being subdivided in accordance with Section 13.12 of the Master Declaration and the provisions of O.C.G.A. § 44-3-92 by filing an independent declaration of condominium for said Residential Component;

WHEREAS, a plat of survey related to Atlantic 17th, A Residential Condominium prepared by Highland Engineering, Inc. was filed in Condominium Plat Book 16, Page 663, et seq., Fulton County, Georgia records;

WHEREAS, floor plans relating to Atlantic 17th, A Residential Condominium prepared by Gary B. Coursey & Associates Architects, Inc., were filed in Condominium Floor Plan Book 32, Page 348, et seq., Fulton County, Georgia records;

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration and to the Georgia Condominium Act; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located thereon, is hereby submitted and made subject to the form of ownership set forth in the Georgia Condominium Act, and is hereby subjected to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to provisions of the Georgia Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

DECLARATION OF CONDOMINIUM

FOR

ATLANTIC 17TH, A RESIDENTIAL CONDOMINIUM

1. **NAME.**

The name of the condominium is Atlantic 17th, A Residential Condominium (hereinafter sometimes called "Atlantic 17th Residential" or the "Condominium", as further defined herein), which condominium is hereby submitted by Declarant to the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as amended.

2. **DEFINITIONS.**

Generally, terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as follows:

(a) Act shall mean the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as such act may be amended from time to time.

(b) Additional Property shall mean that property described in Exhibit "C" attached hereto and incorporated herein, which Declarant may, but shall have no obligation to, submit to the Condominium as provided in this Declaration.

(c) Area of Common Responsibility shall mean the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person become the responsibility of the Association.

(d) Articles or Articles of Incorporation shall mean the Articles of Incorporation of Atlantic 17th Residential Condominium Association, Inc., which have been filed with the Secretary of State of the State of Georgia.

(e) Association shall mean Atlantic 17th Residential Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) Atlantic Station District Declaration shall mean that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for The District recorded in Deed Book 38171, Page 37 *et seq.*, of the Official Records, as amended by that certain First Amendment to Declaration of Protective Covenants, Conditions, Restrictions and Easements for The District recorded in Deed Book 39105, Page 182 *et seq.*, of the Official Records, and as amended or as may be amended.

(g) "Atlantic Station Master Declaration" shall mean that certain Second Amended and Restated Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Atlantic Redevelopment Site recorded in Deed Book 37538, Page 38 *et seq.*, of the Official Records, as amended or as may be amended.

(h) Board of Directors shall mean the board of directors of the Association, which shall be the body responsible for management and operation of the Association.

(i) Building shall mean that certain twenty-six (26) story building having an address of 361 17th Street, Atlanta, Georgia, which contains the Condominium.

(j) Building Site Declaration shall mean that certain Declaration of Building Site Covenants, Conditions, and Restrictions for Parcels H1 and R18 of the Atlantic Station® Redevelopment Site recorded in Deed Book 37980, Page 235, *et seq.*, of the Official Records, as amended or as may be amended.

(k) Bylaws shall mean the Bylaws of Atlantic 17th Residential Condominium Association, Inc., attached to this Declaration as Exhibit "F" and incorporated herein by this reference.

(l) Commercial Unit(s) shall mean any space shown on the Floor Plans for the Condominium recorded in the Fulton County, Georgia records marked as "Commercial Unit" or "CU" (which may be followed by a number to distinguish one (1) Commercial Unit from another).

(m) Common Elements shall mean: (i) those portions of the property subject to this Declaration, which are not included within the boundaries of a Unit, as more particularly described in this Declaration; and (ii) those portions of the Master Condominium that are assigned to the Residential Component as a "Limited Common Element" in the Master Declaration.

(n) Common Expenses shall mean the expenses of the Association for the general benefit of the Condominium, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, those expenses required under the Master Declaration, and those expenses required under the Easement and Cost Sharing Agreement.

(o) Community-Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing within the Condominium. Such standard may be more specifically determined by the Board of Directors and the Architectural Control Committee.

(p) Component shall have the same meaning as set forth in Section 2 of the Master Declaration.

(q) Condominium shall mean: (i) all that property described in Exhibit "A" attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration and any property described in Exhibit "C" that is later submitted to the provisions of the Act and this Declaration; and (ii) those portions of the Master Condominium that are assigned to the Residential Component as a Master Limited Common Element in Section 6 of the Master Declaration.

(r) Condominium Instruments shall mean this Declaration and all exhibits to this Declaration, including the Bylaws of the Association, and the Survey and Floor Plans, the Master Declaration and all exhibits to the Master Declaration, including the Bylaws of the Master Association, and the Master Plat and Master Floor Plans, all of such documents which may be supplemented or amended from time to time.

(s) Contractor shall mean any Person, firm, partnership, corporation, association, or other organization that is engaged in the business of designing, developing, constructing, or selling dwellings or the alteration of or addition to an existing dwelling, repair of a new or existing dwelling, or construction, sale, alteration, addition, or repair of an appurtenance to a new or existing dwelling, including, but not limited to, Declarant. The term includes:

- (i) An owner, officer, director, shareholder, partner, or employee of the Contractor;
- (ii) Subcontractors and suppliers of labor and materials used by a Contractor in a dwelling; and
- (iii) A risk retention group registered under applicable law, if any.

(t) Declarant shall mean WN Atlantic Properties, LLC, a Georgia limited liability company, its respective successors and assigns and any other Person as further set forth in Section 44-3-71(13) of the Act, provided that such successors and/or assigns are designated in writing by Declarant as a successor and/or assign of the rights of Declarant set forth herein. The expiration of Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its successors and assigns, as Declarant hereunder or divest it of other rights specifically reserved to Declarant herein.

(u) Declarant Control Period shall mean that time period in which Declarant has the right to appoint directors and officers of the Association under Article III, Part A, Section 2 of the Bylaws.

(v) District Owners' Association shall have the same meaning as such term is defined in the Atlantic Station District Declaration.

(w) Domestic Partner shall mean any adult who cohabitates with an Owner and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's secretary. A person shall no longer be a Domestic Partner upon the secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

(x) Easement and Cost Sharing Agreement shall mean that that certain Declaration of Easements and Cost Sharing Agreement between the Association and WN Atlantic Properties, LLC, and recorded in Deed Book ~~4477~~ Page 2, et seq., of the Official Records, as amended or as may be amended.

(y) Effective Date shall mean the date on which this Declaration is recorded in the Official Records.

(z) Electronic Document shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form, including, but not limited to, e-mail, web pages, electronic documents, and facsimile transmissions.

(aa) Electronic Signature shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

(bb) Eligible Mortgage Holder shall mean those holders of first Mortgages secured by Units in the Condominium who have requested notice of certain items as set forth in this Declaration.

(cc) Floor Plans shall mean the floor plans for Atlantic 17th, A Residential Condominium, filed in the condominium floor plan book of the Official Records.

(dd) Hotel Component shall have the same meaning as set forth in Section 2 of the Master Declaration.

(ee) Limited Common Elements shall mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Declaration.

(ff) Maintenance Manual shall mean those certain maintenance criteria, maintenance manuals, and warranty requirements for the Building provided by Declarant to the Association in accordance with subparagraph 17(f)(ii) hereof.

(gg) Majority means more than fifty percent (50%) of the total eligible number.

(hh) Master Architectural Control Committee or MACC have the same meaning as "Architectural Control Committee", as defined in subparagraph 2.2 of the Master Declaration.

(ii) Master Association shall mean Atlantic 17th Master Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(jj) Master Bylaws shall mean the Bylaws of Atlantic 17th Master Condominium Association, Inc., attached to the Master Declaration as Exhibit "C".

(kk) Master Condominium shall mean Atlantic 17th, a Master Condominium created by that certain Master Declaration.

(ll) Master Condominium Property shall mean all that tract or parcel of land located in Land Lot 49 of the 14th District of Fulton County, Georgia, and being more particularly described in Exhibit "A" of the Master Declaration incorporated herein by this reference.

(mm) Master Declaration shall mean that certain Declaration of Condominium for Atlantic 17th, a Master Condominium dated December 6, 2005, and recorded in Deed Book 41476, Page 600, et seq., Fulton County, Georgia records, as amended or as may be amended.

(nn) Master Floor Plans shall mean those certain floor plans related to the Master Condominium prepared by Gary B. Coursey & Associates Architects, Inc., dated June 3, 2005, and filed in Condominium Floor Plan Book 32, Page 327, et seq., Fulton County, Georgia records, as amended or as may be amended.

(oo) Master Common Element shall have the same meaning as "Common Element", as defined in subparagraph 2.11 of the Master Declaration.

(pp) Master Limited Common Element shall have the same meaning as "Limited Common Element", as defined in subparagraph 2.30 of the Master Declaration.

(qq) Master Plat shall mean that certain plat of survey related to the Master Condominium prepared by Highland Engineering, Inc. dated November 02, 2005 and filed in Condominium Plat Book 16, Page 1062, et seq., Fulton County, Georgia records, as amended or as may be amended.

(rr) Mortgage shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

(ss) Mortgagee or Mortgage Holder shall mean the holder of any Mortgage.

(tt) Occupant shall mean any Person (i) staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant or the Owner of such Unit, or (ii) regularly occupying a Commercial Unit for retail or business purposes as an owner or employer of such business.

(uu) Official Records shall mean the official land records of the Clerk of the Superior Court of Fulton County, Georgia.

(vv) Owner shall mean the record titleholder of a Unit within the Condominium, but shall not include a Person who is only a Mortgage Holder.

(ww) Parking Easement shall mean that certain Declaration of Parking Easement dated July 7, 2004 executed by Atlantic Station, L.L.C., in favor of Declarant, and recorded in Deed Book 37980, Page 178, et seq., of the Fulton County, Georgia records, as amended or as may be amended.

(xx) Parking Easement Area shall mean the parking area within the Atlantic Station parking deck which constitutes the "Parking Easement Area" for the Property as defined in the Parking Easement

(yy) Permittee shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner or Declarant.

(zz) Person shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.

(aaa) Residential Component shall have the same meaning as set forth in Section 2 of the Master Declaration.

(bbb) Residential Unit shall mean all Units except for any Commercial Unit as defined above.

(ccc) Retail Component shall have the same meaning as set forth in Section 2 of the Master Declaration.

(ddd) Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

(eee) Survey shall mean the plat of survey for Atlantic 17th, A Residential Condominium, filed in the condominium plat book of the Official Records.

(fff) Telecommunications Agreement shall have the same meaning as more specifically set forth in subparagraph 19(j)(xv) hereof.

(ggg) Total Association Vote shall mean all of the eligible votes attributable to members of the Association (including votes attributable to Declarant), and the written consent of Declarant for so long as Declarant owns a Unit primarily for the purpose of sale.

(hhh) Unit shall mean that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium subject to this Declaration and the Act is located in Land Lots 108 and 148 of the 17th District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Survey and Floor Plans relating to the Condominium will be filed in the Official Records at the time the Condominium is submitted to this Declaration. The Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

So long as Declarant owns a Unit, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and the Units owned by Declarant (other than changes to the location of Unit boundaries unless expressly permitted herein), including, without limitation,

addition, realignment and renumbering of parking spaces, addition, reconfiguration and renumbering of storage spaces, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, and extension of the drives and utility lines and pipes located on the Condominium.

4. UNITS AND BOUNDARIES.

The Condominium will be divided into three hundred and eighty (380) Residential Units, one (1) Commercial Unit, and Common Elements, some of which will be assigned as Limited Common Elements. Each Unit consists of a dwelling or commercial space, as applicable, and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure that lies within the following boundaries:

(b) Vertical Boundaries. The perimetrical or vertical boundary of each Unit shall be the vertical plane formed by the outermost surface of the stud in the walls separating the Unit from the exterior walls of the Building. With respect to common walls between Units or common walls between a Unit and a corridor, the perimetrical or vertical boundary of the Units served thereby shall be the vertical plane formed by the centerline of such walls.

(c) Horizontal Boundaries.

(i) Commercial Unit-1. The upper horizontal boundary of CU-1 shall be the centerline of the concrete slab constituting the ceiling of such Unit and the floor of the Component or Master Common Element located directly above on the second floor of the Building. The lower horizontal boundary shall be the centerline of the concrete slab constituting the floor of CU-1 and the ceiling of the Component or Common Element located in the Parking Easement Area directly below on parking level 1.

(ii) Floor 7. For those Units located on floor 7 of the Building, the upper horizontal boundary of such Units shall be the centerline of the concrete slab located between the ceiling of such Units and the flooring of the Units located above. The lower horizontal boundary of such Units shall be the centerline of the concrete slab constituting the flooring of such Units and the ceiling of the Hotel Component or other space located on floor 6 of the Building.

(iii) Floors 8 through 25. For those Units located on floors 8 through 25 of the Building, the upper horizontal boundary of such Units shall be the centerline of the concrete slab constituting the ceiling of such Units and the flooring of the Units located above. The lower horizontal boundary of such Units shall be the centerline of the concrete slab constituting the flooring of such Units and the ceiling of the Units located below.

(iv) Floor 26. For those Units located on floor 26 of the Building, the upper horizontal boundary of such Units shall be the centerline of the concrete slab constituting the ceiling of such Units and the roof of the Building. The lower horizontal boundary of such Units shall be the centerline of the concrete slab constituting the flooring of such Units and the ceiling of the Units located below.

(c) Additional Information to Interpret Unit Boundaries. Entry doors and exterior glass surfaces, including, but not limited to, windows and glass doors, serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and appliances and plumbing fixtures within a Unit shall be part of the Unit. The columns and sheer walls shall not be part of a Unit.

If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and partially outside of the designated boundaries of the Unit, any portion thereof that serves only that Unit shall be deemed to be a part of that Unit, while any portions thereof that serve more than one (1) Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

In interpreting deeds and Floor Plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Floor Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or Floor Plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the Floor Plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit, whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association.

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit, and all Master Limited Common Elements assigned to the Residential Component as more specifically set forth in Paragraph 6 of the Master Declaration and incorporated herein by this reference. The Common Elements shall include, without limitation, residential lobby, trash chute, ventilation shafts, stairwell #1, stairwell #2, stairwell #3, stairwell #4, stairwell #5, stairwell #8, elevator C-1, elevator C-2, elevator T-1, elevator T-2, mail kiosk area, storage rooms, corridors, club room, pantry, hallways, lobbies, elevator lobbies, vestibules, and limited access entry systems.

Ownership of the Common Elements shall be by the Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit is set forth on Exhibit "B" attached hereto and incorporated herein by this reference. Such percentages of undivided interest may be altered only by the written consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, except in the case of expansion of the Condominium, as provided in Paragraph 25 hereof, in which case the amendment may be approved and executed by Declarant without approval of the Owners or Mortgagees..

The Common Elements shall remain undivided, and no Owner or any other Person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

(a) The Limited Common Elements located on the Condominium and the Unit(s) to which they are assigned is as follows, and may be more specifically shown on the Floor Plans:

(i) a balcony attached to and exclusively serving a Unit, as more specifically shown on the Floor Plans, is assigned as a Limited Common Element to the Unit so served;

(ii) a terrace attached to and exclusively serving a Unit, as more specifically shown on the Floor Plans, is assigned as a Limited Common Element to the Unit so served;

(iii) the corridors and hallways serving more than one (1), but less than all Units, are assigned as Limited Common Elements to the Units located on the same floor of the Building as such corridors and hallways;

(iv) a service elevator lobby or passenger elevator lobby serving more than one (1), but less than all Units, is assigned as a Limited Common Element to the Units located on the same floor of the Building as such service elevator lobby or passenger elevator lobby;

(v) a mechanical or electrical room serving more than one (1), but less than all Units, is assigned as a Limited Common Element to the Units so served;

(vi) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;

(vii) subject to the Parking Easement, parking spaces may be initially assigned or reassigned to a Unit as Limited Common Elements by an amendment to this Declaration as provided in subparagraphs (b) and (c) below;

(viii) storage spaces may be initially assigned or reassigned to a Unit as Limited Common Elements by an amendment to this Declaration as provided in subparagraphs (b) and (c) below;

(ix) any chimney (including the flue, damper and chimney cap) adjoined and connected to a Unit or Units are assigned as Limited Common Elements to the Unit or Units to which they are adjoined and connected;

(x) any utility meter that serves only one (1) Unit is assigned as a Limited Common Element to the Unit so served; and

(xi) each Unit is assigned one (1) mailbox or mail slot, to be initially assigned in the sole discretion of Declarant.

(b) The Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Limited Common Elements and Common Elements not previously assigned, provided that any such assignment or reassignment shall be made in accordance with the provisions of Section 44-3-82(b) and (c) of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Board of Directors, without the need for a vote of the Association, upon written application to the Association by the Owner or Owners for whose exclusive use such Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act. For so long as Declarant owns a Unit primarily for the purpose of sale, an amendment to assign a Common Element, not previously assigned as a Limited Common Element shall be executed by the officers of the Association, if the request is made by Declarant. The Board of Directors has the right to approve or disapprove any such request made by any Person other than Declarant.

(c) For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant shall have the right to sell to Owners one (1) or more parking spaces or storage spaces to be assigned as Limited Common Elements pursuant to subparagraphs (a) and (b) above. The proceeds of the sale of parking spaces or storage spaces as Limited Common Elements shall belong to Declarant.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the Atlantic 17th Residential Condominium Association, Inc. and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Owner or collective Owners of a Unit shall be entitled to one (1) equally weighted vote for such Unit. Notwithstanding anything to the contrary herein, Declarant shall be permitted to assign its voting rights to a Mortgagee which rights may be exercised prior to completion of foreclosure by such a Mortgagee pursuant to the assignment of rights.

Furthermore, each Owner, by acceptance of a deed to a Unit, acknowledges that, in addition to being subject to and bound by the Condominium Instruments, he or she is subject to the Master Declaration, and that the Association is a member of and subject to assessment by the Master Association.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

(a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit as set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

(b) The Board of Directors shall have the power to levy special assessments against Units pursuant to this Paragraph and to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board of Directors to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Director's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Paragraph.

(i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units (such as Common Expenses benefiting the Unit or Units to which certain Limited Common Elements have been assigned, as set forth in Paragraph 6 hereof) shall be specially assessed equitably among all of the Units that are benefited according to the benefit received. Except for expenses for maintenance, repair or replacement of Limited Common Elements, which may be specially assessed, expenses incurred for the maintenance, repair or replacement of the Area of Common Responsibility, shall not be specially assessed.

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the Occupant(s), licensees or invitees of any such Unit or Units may be specially assessed against such Unit or Units.

(c) The Condominium is currently served by a common water meter and common gas meter for Units having gas fireplaces and submeters for individual Units for said utilities. The Board of Directors shall have the authority to assess individual Unit utilities usage charges based on readings of the submeters or based upon reasonable estimates of utilities charges with periodic adjustments, including the right to add a charge for the cost of overhead for such submetering, to add a charge for common area utilities usage charges based on such individual usage as a proportion of all individual usage, and/or to install separate, direct utility meters for the Units.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

- (a) to enter into Units for maintenance, emergency, security, or life-safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit. For the purposes of this Paragraph, an emergency justifying immediate entry into a Unit shall include, but not be limited to the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this subparagraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights, except as provided in the Act. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Unit shall exist;
- (b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements;
- (c) to enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in Section 44-3-76 of the Act, as amended;
- (d) to grant and accept permits, licenses, utility easements, leases, and other easements;
- (e) to control, manage, operate, maintain, improve and replace all portions of the Area of Common Responsibility;
- (f) to represent and act on behalf of the Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of the Act and Paragraph 12 of this Declaration;
- (g) to represent and act on behalf of the Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of the Act and Paragraph 20 of this Declaration;
- (h) to acquire, hold, and dispose of tangible and intangible personal property and real property;
- (i) to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Condominium, including, without limitation, damage resulting from: moving in or out of a Unit; the transportation and use of construction materials in the Condominium; and the alteration, modification, or addition to a Unit and any Limited Common Element appurtenant thereto. Costs for repair of such damage may be deductible from the security deposit and any additional expenses may be specifically assessed against the Unit under subparagraph 8(b)(ii) above;
- (j) to approve contractors or subcontractors who have access to the Condominium for the purpose of making repairs or improvements to Units based on rules and regulations promulgated and adopted by the Board of Directors which may include, without limitation: financial stability of the contractors and/or subcontractors; history of compliance with the Condominium Instruments and rules and regulations of the Association; and other factors that may be reflective of quality and ability. The Board of Directors may also impose insurance requirements and collect other non-refundable fees for use of elevators and the trash receptacles;

(k) at the sole expense of the Association, without need for a membership vote, and without the written consent of any affected Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical, or telecommunications system serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Owner as existed prior to the relocation;

(l) to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements and any Common Elements the use of which is reasonably necessary for access to or from a Unit, or any portion of the Common Elements over, on, upon or which Declarant has an easement), with thirty (30) days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open closed Common Elements by a Majority of the Total Association Vote cast at a duly called special or annual meeting;

(m) to enter into joint agreements and contracts with other associations and legal entities for the provision of services, including, without limitation, management, landscaping, porter, concierge, property monitoring services, and trash removal services;

(n) to pay assessments to the Master Association as provided in the Master Declaration;

(o) to appoint representatives to the Master Association to represent the Condominium in accordance with the Master Declaration and the Master Bylaws;

(p) to pay any amount to the owner of the Hotel Component in accordance with the Easement and Cost Sharing Agreement; and

(q) to represent the Condominium in matters related to the Easement and Cost Sharing Agreement.

10. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board of Directors.

(b) Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Unit that are established pursuant to the terms of this Declaration, including but not limited to reasonable fines imposed in accordance with the terms of this Declaration.

All such assessments, together with charges, interest, costs, and reasonable attorneys' fees actually incurred, and if the Board of Directors so elects, rents, in the maximum amount permitted by the Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day

of each calendar month. No Owner may exempt him or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder, or an inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act. Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation to fund budgetary deficits of the Association.

The Board of Directors shall have the right to (i) not spend the full amount budgeted for any particular line item in the budget; (ii) spend more than what has been budgeted, and (iii) shift revenues within the budget from one line to another. Notwithstanding anything to the contrary stated herein, during Declarant Control Period, Declarant or Declarant appointed Board of Directors shall be authorized subject to applicable limitations in the Act to unilaterally reduce the amount of the annual assessments owed on Units without the necessity of a vote of the Owners to reflect cost savings that were not contemplated at the time the initial, estimated operating budget for the Association was developed.

(c) Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(i) If any monthly installment of annual assessments or any part thereof is not paid in full by the tenth (10th) day of the month or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of Ten Dollars (\$10) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum or such higher rate as may be permitted by the Act shall accrue from the due date.

(ii) If part payment of assessments and related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

(iii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year.

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after they become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred, and suspend the Owner and/or Occupant's right to use the Common Elements, including the right to bring or park vehicles on the Common Elements or have guests bring or park vehicles on the Common Elements. However, the Board of Directors may not: (A) deny any Owners or Occupants access to the Unit owned or occupied nor cause any hazardous or unsanitary condition to exist; (B) limit pedestrian, medical, fire, police or other health, safety, service or emergency vehicle ingress or egress to or from the Unit; or (C) deny necessary parking of clearly and properly identified handicapped vehicles used by handicapped Owners or Occupants protected by the Fair Housing Amendments Act of 1988. Prior to suspending parking privileges, the Association shall provide the delinquent Owner or Occupant written notice of its intention to do so, sent by certified mail not less than ten (10) days prior to the date of such suspension.

(v) If any assessment or other charge is delinquent for thirty (30) days or more, and the Association has obtained final judgment(s) totaling more than Seven Hundred Fifty Dollars (\$750.00) against the Owner or encumbering the Unit, then, in addition to all other rights provided under Georgia law and herein, the Association shall have the right, in compliance with any requirements set forth in the Section 44-3-76 of the Act, to suspend water, electricity, gas, heat, air conditioning, cable or satellite television, internet access or other internet-based services, or any other or utility service to the Unit paid for as a Common Expense by the Association. Any costs incurred by the Association in discontinuing and/or reconnecting any utility or service, including reasonable attorneys' fees actually incurred, shall be an assessment against the Unit. The utility or service shall not be required to be restored until the judgment(s) is (are) paid in full, at which time the Association shall make arrangements for restoration of the utility or service. An Owner whose utility or service has been suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services under O.C.G.A. Section 16-8-5.

Notwithstanding the above, if cable television, satellite, or internet service or any other service not constituting a utility is provided by the Association as a Common Expense, that service may be suspended upon ten (10) days written notice to the delinquent Owner, without obtaining any judgment against the Owner or encumbering the Unit. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(d) Computation of Operating Budget and Assessment. It shall be the duty of the Board of Directors at least twenty-one (21) days prior to the Association's annual meeting to prepare and deliver to each member a budget covering the estimated costs of operating the Condominium (including any assessments to be paid to the Master Association as set forth in the Master Declaration and any expenses to be incurred under the Easement and Cost Sharing Agreement) during the coming year and a notice of the assessments to be levied against each Unit for the following year. The budget and the assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a Majority of the Total Association Vote; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board of Directors fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board of Directors may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

Notwithstanding anything to the contrary stated herein, during the Declarant Control Period, Declarant or Declarant-appointed Board of Directors shall be authorized, subject to any limitations in the Act, to unilaterally pass a new budget to reflect costs resulting from the addition of a phase or phases to the Condominium or to reflect costs that were not contemplated at the time the initial, estimated operating budget for the Association was developed.

(e) Special Assessments. In addition to the annual assessment provided for in subparagraph (b) above, the Board of Directors may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment (except as provided in subparagraph 8(b) regarding the power to assess specially pursuant to Section 44-3-80(b) of the Act and subparagraph 12(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium) which would cause the average total of special assessments levied in one (1) fiscal year

to exceed Two Hundred Dollars (\$200) per Unit or such higher amount as is authorized by the Act, shall be approved by a Majority of the Total Association Vote prior to becoming effective.

(f) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board of Directors and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

(g) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding Ten Dollars (\$10), or such higher amount as may be authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

(h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's capital reserve account as set forth in subparagraph (f) above.

If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of funds at the end of such fiscal year (excluding amounts designated for reserves), the Board of Directors may, but shall not be required to, reduce the amount of the annual assessment to be collected from the Owners for the remainder of that fiscal year. Any Owner who has already paid the entire annual assessment at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the annual assessment of the Association for the following fiscal year. Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

(i) Working Capital Fund. Declarant, on behalf of the Association, shall establish a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services. A non-refundable contribution to the working capital fund of the Association shall be paid by the purchaser of a Unit at the closing of each sale or resale of a Unit in the amount of two (2) months of the general assessment charged to such Unit. Declarant shall not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association. Notwithstanding anything to the contrary herein, the contribution to the working capital fund shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Unit is conveyed by a will or through the law of intestacy; or (iv) any grantee of a Unit who obtains title pursuant to judicial or nonjudicial foreclosure of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Unit).

11. INSURANCE.

Insurance for the Condominium shall be obtained and maintained at all times by the Master Association pursuant to Paragraph 11 of the Master Declaration, as required by Section 44-3-107 of the Act, and in reliance of Section 44-3-115 of the Act (which Section of the Act provides that the provisions of the Act and the Condominium Instruments recorded pursuant to the Act shall be liberally construed in favor of the valid establishment of a condominium). All insurance purchased by the Master Association pursuant to Paragraph 11 of the Master Declaration shall run to the benefit of the Master Association, the board of directors of the Master Association, officers and all agents and employees of the Master Association, the Association, the Board of Directors, officers and all agents and employees of the Association, the Component owners, and their respective Mortgagees, and all other Persons entitled to occupy any Unit or Component, as their interests may appear.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, unless provided otherwise in the Master Declaration, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Unit.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition that existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair as determined by the Board of Directors, the additional costs shall be assessed against all Owners according to the percentage of interests as set forth in Exhibit "B", provided, however if the Master Association has obtained insurance as provided in Paragraph 11 and the proceeds are not sufficient to defray the costs of reconstruction and repair of a Unit such cost shall be assessed against the Owner(s) of the Unit(s) damaged in proportion to the damage to the Units. These assessments shall not be considered a special assessment as discussed in subparagraph 10(e). If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

(c) Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Condominium was originally constructed to standard finish so as to exclude any upgrades made to Units, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

(d) Encroachments. Encroachments upon or in favor of Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed Building shall stand.

(e) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of such casualty shall constitute a construction fund that shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in reasonably appropriate progress payments to such

contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the structures as are designated by the Board of Directors.

13. ARCHITECTURAL CONTROLS.

(a) Architectural Control. All encroachments onto the Common Elements or Limited Common Elements, exterior change, alteration or construction (including painting and landscaping), and any erection, placement or posting of any object, sign, clothesline, speaker, playground equipment, light, fountain, flag, personalized or customized exterior door mat, or thing on the exterior or roof of the Condominium, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements, must receive the prior written approval of the Master Architectural Control Committee. However, a mezuzah or comparable religious symbol not larger than one inch (1") in width and seven inches (7") in height may be posted on the doorframe of the Unit. In addition, reasonable seasonal decorative lights may be displayed from within a Unit between Thanksgiving and January 15th. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, the location in relation to surrounding structures and topography, and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements. Notwithstanding anything to the contrary stated herein, the initial improvements constructed on the Condominium and all architectural modifications thereto that are made by Declarant shall not be subject to approval pursuant to this Paragraph.

(b) Alteration of Units. Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(i) Alterations to the Interiors of the Units. Notwithstanding anything to the contrary stated herein, no Owner or Occupant may make any alteration to or within a Unit that: (A) involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities; (B) places an excessive load on any structural or load bearing portions of a Unit; or (C) requires penetration of any concrete floor or ceiling slab without first making a complete application to the MACC pursuant to subparagraph 13(d) below, and obtaining the prior written approval of the MACC. Such approval shall not be granted by the MACC unless the Owner or Occupant of the Unit has presented to the MACC such information as the MACC may reasonably require, including, but not limited to, the following documentation: (1) a report or drawing prepared and certified by a structural engineer licensed in the State of Georgia, which report or drawing shall demonstrate that such proposed interior modifications will not in any way affect or impair the structural soundness or integrity of the Building or any of the Units; (2) building plans for the proposed interior modifications; (3) all necessary permits or approvals required by governmental authorities for the proposed interior modifications; and (4) a certificate of insurance from applicant's contractor, which names the Master Association, the Association and the Owner of the Unit as an additional insured. In addition, within seven (7) days of completion of the interior modifications, the MACC shall be provided with a copy of the certificate of occupancy, and an inspection report prepared and certified by a structural engineer licensed in the State of Georgia.

Furthermore, if alterations to the interior of a Unit requires the penetration of the concrete floor or ceiling slab, the Owner shall also provide the MACC with a report prepared and certified by a structural engineer licensed in the State of Georgia confirming that an x-ray analysis (or other method specified by the MACC) has been performed for the purposes of verifying that such penetration of the concrete floor or ceiling slab will not impair the structural integrity of such concrete floor or ceiling slab or result in the severing of any structural post-tension system or conduits that may be located within the concrete floor or ceiling slab.

Notwithstanding the foregoing, an Owner shall not relocate or make any connection to a Common Element pipe, line, conduit and/or other apparatus for access to common utilities if such connection will impair or have an adverse effect to the utilities or service of utilities to the other Units or any portion of the Common Elements.

(ii) Relocation of Boundaries. Boundaries between adjoining Units may be relocated only in accordance with the provisions of O.C.G.A. § 44-3-91 and this Declaration. As long as Declarant owns a Unit for sale, an Owner must obtain the prior written consent of Declarant and the Board of Directors in order to relocate the boundaries of his or her Unit. After Declarant no longer owns a Unit for sale, an Owner must obtain the prior written consent only of the Board of Directors in order to relocate the boundaries of his or her Unit. Declarant shall have the right to relocate boundaries between Units owned by Declarant without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Declaration.

(iii) Subdivision of Units. No Unit may be subdivided into a smaller Unit or Units, provided, however, Declarant and the Owner(s) of the Commercial Unit(s) shall have the right to subdivide such Commercial Unit(s) owned by them respectively without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Declaration

(c) Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the MACC may reasonably require, including, but not limited to, the documentation described in subparagraph 13(b) above. Once an application and all required information is received by the MACC, the MACC shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the "Notice of Application Completion"). The MACC shall be authorized to retain an engineer, architect or other consultant to review such application and related documentation and plans, and all costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the MACC until such time as all costs and expenses related to the review of an application have been paid by the applicant. The MACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, materials to be used, harmony with the external design of the Building and other structures that may be located on the Condominium, and it shall be entitled to stop any construction that is not in conformance with approved plans. The Board of Directors or MACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the Building and Units, and the location in relation to surrounding structures and topography of the vicinity.

If the MACC or its designated representative fails to approve or to disapprove a complete application within fifteen (15) days after the date of the Notice of Application Completion, its approval will not be required and this Paragraph will be deemed complied with; provided, however, even if the requirements of this Paragraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement (other than that which was requested and to which the MACC did not respond) that is in violation of this Declaration, the Bylaws or rules and regulations promulgated and adopted by the Association or of any applicable zoning or other laws. Under no circumstances will alterations be made or permitted to be made by any Owner if such alteration will:

(i) unreasonably diminish the benefits afforded to such other Owners by any easement or license or unreasonably interrupt such other Owner's use or enjoyment of any easement or license; provided, however, interruption of the use and enjoyment of any easement or license for temporary construction purposes shall not require consent of the Owners if, upon completion of construction, each Owner's use and enjoyment of the affected easement or license is restored;

(ii) materially adversely affect or impair the structural integrity, character, value or utility of the Building (or any portion thereof);

(iii) materially adversely affect facilities benefiting any other Owners;

(iv) except as to signage, alter the facade or exterior appearance of any portion of the Building in any material respect; or

(v) materially and adversely affects the rights of any Owner, Occupant or Person to exercise the easement rights granted in Paragraph 21 hereof.

(d) Encroachments onto Common Elements. The MACC subject to this Paragraph may permit Owners to make encroachments onto the Common Elements as it deems acceptable.

(e) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless such responsibilities are assumed by the Association in a written agreement. It is the responsibility of every Owner of a Unit to determine for him or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board of Directors or MACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(f) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and neither Declarant, the Board of Directors, the Master Association or the MACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither Declarant, the Association, the Board of Directors, the Master Association, the MACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(g) No Waiver of Future Approvals. Each Owner acknowledges that the members of the MACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the MACC may adopt different architectural standards for different parts of the Condominium, based on street visibility and location of the proposed modification in the Building. The approval of the MACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the MACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(h) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the MACC, Owners shall, at their own cost and expense, promptly remove or cause the removal of such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the MACC or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorneys' fees, may be assessed against the benefited Unit and collected as an assessment pursuant to this Declaration.

In addition to the foregoing, the Board of Directors at the request of the MACC shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions. Furthermore, the MACC and

Board of Directors shall have the authority to record in the Official Records notices of violation of the provisions of this Paragraph.

If any Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board of Directors or MACC may require that the change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

(i) Commencement of Construction. All changes, modifications and improvements approved by the MACC hereunder must be commenced within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed revoked by the MACC, unless the MACC gives a written extension for commencing the work. All work approved by the MACC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the MACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

(j) Approval Under Other Declarations. The provisions for architectural control contained in this Declaration shall be in addition to, and not in lieu of the architectural control provisions contained in the Master Declaration, Atlantic Station District Declaration, Atlantic Station Master Declaration, or Building Site Declaration. Whenever approval of the Board of Directors or the MACC is required under this Declaration, the granting of such approval shall not dispense with the need also to comply with the approval procedures set forth in the Master Declaration, Atlantic Station District Declaration, Atlantic Station Master Declaration, or Building Site Declaration. All proposed construction, modifications, alterations, and improvements shall be approved pursuant to this Declaration before being submitted for approval pursuant to the Master Declaration, Atlantic Station District Declaration, Atlantic Station Master Declaration, or Building Site Declaration.

14. USE RESTRICTIONS.

(a) General. Each Owner of a Unit shall be responsible for ensuring that the Owner's family, guests, tenants, invitees, and Occupants comply with all provisions of the Condominium Instruments and the rules and regulations promulgated and adopted by the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants, invitees or Occupants, as a result of such person's violation of the Condominium Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants, invitees, or Occupants. In addition to the following use restrictions, the Board of Directors may adopt rules and regulations in accordance with the terms hereof as specified in the Bylaws.

(b) Use of Units.

(i) Residential Units. Each Residential Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Residential Unit or any part of the Condominium, except that the Owner or Occupant residing in a Residential Unit may conduct ancillary business activities within the Residential Unit so long as:

(A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Residential Unit;

(B) the business activity does not involve visitation of the Residential Unit by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a Residential Unit without business activity;

(C) the business activity is legal and conforms to all zoning requirements for the Condominium;

(D) the business activity does not increase traffic in the Condominium in excess of what would normally be expected for Residential Units in the Condominium without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(E) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(F) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as determined in the Board's discretion; and

(G) the business activity does not result in a materially greater use of common element facilities or Association services.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (2) a license is required therefor.

(ii) Commercial Units. Each Commercial Unit shall be used only for such commercial use or business purposes permitted by the Master Declaration, Atlantic Station District Declaration, Atlantic Station Master Declaration, Building Site Declaration and applicable zoning ordinance and use restrictions, provided such commercial or business activity does not constitute a nuisance or hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the reasonable discretion of the Board. An activity that is permitted under applicable zoning ordinances and this Declaration shall not constitute a public or private nuisance. Except as otherwise specifically provided for herein, no tenant, employee, visitor, guest or invitee of a Commercial Unit shall have access, ingress, or egress to or through any portion of the Condominium except said Commercial Unit.

(c) Number of Occupants. The maximum number of Occupants in a Residential Unit shall be limited to two (2) people per bedroom in the Residential Unit (as such bedrooms are depicted on the original Survey and Floor Plans filed in the Official Records). For the purposes of this subparagraph (c), efficiencies and studio type units shall constitute a one (1) bedroom unit.

If an Owner of a Residential Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board of Directors the name(s) of the person(s) who will occupy the Unit. The designated person(s) to occupy the Residential Unit may not be changed more frequently than once every six (6) months without the prior written approval of the Board of Directors.

(d) Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board of Directors, except as specifically provided herein. With prior written approval by the Board of Directors, and subject to any restrictions imposed by the Board of Directors, an Owner may reserve portions of the Common Elements for use for a period of time as set by the Board of Directors. Any such Owner who reserves a portion of the Common Elements as provided herein shall assume, on behalf of himself or herself and his or her guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. Except for access necessary for the maintenance and repair of an air conditioning or heating system exclusively serving a particular Unit, there shall be no use of or access to the roof of the Condominium by the Owners, his or her family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roof for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board of Directors. This subparagraph shall not apply to Declarant, so long as Declarant shall own a Unit for sale.

(e) Use of Limited Common Elements, Storage Spaces, Balconies, and Terraces. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's family members, guests, tenants and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

(i) Storage Spaces. Storage spaces shall be used solely for the purpose of storing any personal property belonging to the Owner or Occupant of the Unit to which such storage space is assigned as a Limited Common Element. No Owner or Occupant shall store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the storage space that would cause danger or nuisance to the storage space, the Condominium or the Master Condominium. The storage space shall not be used for any purposes unlawful or contrary to any ordinance, regulation, fire code, or health code. If hazardous substances are stored, used, generated or disposed of on or in the storage space or if the storage space becomes contaminated in any manner for which the Owner or Occupant thereof is legally liable, Owner or Occupant shall indemnify and hold harmless Declarant, Association and Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, attorneys' fees, consultant and expert fees, arising as a result of that contamination by Owner or Occupant.

(ii) Balconies and Terraces. The use of balconies and terraces shall be subject to Section 14.3.2 of the Master Declaration.

(f) Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Condominium, or any part thereof, which would increase the rate of insurance on the Condominium or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

The dwelling Units in the Condominium are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner or Occupant shall not conduct activities within a Unit or use a Unit in a manner that unreasonably interferes with or causes disruption to the use and quiet enjoyment of the Common Elements or another Unit by its respective Owner and Occupant.

Furthermore, noxious, destructive or offensive activity shall not be carried on within any portion of the Condominium. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose that may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of a Unit or the Common Elements in any manner that creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will in the sole discretion of the Board of Directors interfere with the rights, comfort or convenience of the other Owners or Occupants.

No Owner, Occupant or agent of such Owner or Occupant shall do any work that, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or life-safety of the Condominium or any structure created thereon, would reduce the value thereof, or would impair any easement or other interest in real property thereto, without in every such case the unanimous, prior written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

(g) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size, and shall also include, without limitation, slingshots, archery, and other projectile emitting devices. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended.

(h) Animals. No Owner or Occupant may keep any animals on any portion of the Condominium except as expressly permitted in this subparagraph. An Owner or Occupant shall keep no more than two (2) dogs and/or cats (for a combined total of two (2)) per Unit and a reasonable number of other generally recognized household pets, as determined in the Board of Director's sole discretion, weighing less than two (2) pounds each (including by way of illustration, but not limitation, fish, gerbils and small birds). Notwithstanding anything to the contrary herein, no fish tank more than thirty (30) gallons in size shall be installed, kept, or used in a Unit without the prior approval of the MACC.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without prior written MACC approval. No pets are allowed on any portion of the Common Elements; provided, however, an Owner or Occupant may walk a pet across the Common Elements for the purposes of entering or exiting the Building or traveling directly to, using the most direct route. Notwithstanding the foregoing, pets must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements. Feces left upon the Common Elements by pets must be immediately removed by the owner of the pet or the person responsible for the pet.

No potbellied pigs or snakes may be brought onto or kept on the Condominium at any time. In addition, other animals determined in the Board of Director's sole discretion to be dangerous or potentially dangerous shall not be brought onto or kept on the Condominium at any time. The Board of Directors may require that any animal that, in the Board of Director's opinion, endangers or potentially may endanger the health of any Owner or Occupant or creates or potentially may create a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board of Directors may (but shall not be obligated to) remove the pet. Any pet that in the Board of Director's sole discretion

presents an immediate danger to the health, life-safety or property of any community member may be removed by the Board of Directors without prior notice to the pet's owner, provided, however, the Association, and their directors, officers, and agents shall have no liability for any decision not to remove such a pet.

Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium.

(i) Parking. A Unit may have at least one (1) parking space assigned as Limited Common Element, exclusively serving such Unit. Such assigned parking spaces are designated Limited Common Elements and may only be used by the Owner or Occupants to whom the parking spaces are assigned, and their guests and families. The use of such parking space shall be subject to the Parking Easement.

Notwithstanding anything to the contrary stated herein, with respect to the handicap parking spaces that may be assigned as Limited Common Elements and shown on the Floor Plans as "HC" or shown as "handicapped" or "disabled" parking, such handicap parking spaces shall be assigned subject to the rights of Declarant (for so long as Declarant owns a Unit primarily for the purposes of sale or lease) or the Association (at such time when Declarant no longer owns a Unit primarily for the purposes of sale or lease) requiring the Owner to whose Unit such handicap parking space has been assigned as a Limited Common Element (hereinafter, the "Original Owner") to grant a license to use such handicap parking space to another Owner (hereinafter, the "Disabled Owner"), provided that (i) the Disabled Owner (or his or her Occupant) qualifies under applicable laws to use a handicap parking space in public facilities, (ii) the Disabled Owner provides the Original Owner with a license to use the Disabled Owner's parking space located in the Condominium, and (iii) upon such time that the Disabled Owner (or his or her Occupant) no longer qualifies as provided in subsection (i) hereof, the licenses shall automatically expire and the Original Owner and the Disabled Owner shall use their respective, original parking spaces.

For so long as Declarant owns a Unit primarily for the purpose of sale, Declarant may sell one or more parking spaces (which parking spaces shall thereafter be Limited Common Elements appurtenant to the Unit to which they have been sold) to an Owner and may adopt rules regulating the use of unassigned parking spaces.

Vehicles permitted under this subparagraph may be parked only in designated, lined parking spaces, or other areas authorized in writing by the Board of Directors.

Disabled and stored vehicles are prohibited from being parked on the Condominium. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being driven for fourteen (14) consecutive days or longer without prior written permission of the Board of Directors.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriff's, Marshall's, or police officer's vehicles marked as such, are also prohibited from being parked on the Condominium, except in areas that may be designated by the Board of Directors as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle shall remain on the Common Elements overnight or for any purpose unless prior written consent of the Board of Directors is first obtained.

If any vehicle is parked on any portion of the Condominium in violation of this Paragraph or in violation of the Association's rules and regulations, the Board of Directors or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the person or entity that will do the towing or booting and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board of Directors or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit or parking space, is obstructing the flow of traffic, is parked on another Component, is parked in a parking space that has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board of Directors or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board of Directors may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

(j) Heating of Units in Colder Months. In order to prevent damage within a Unit, including, but not limited to, cracks in finish materials, and breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of sixty degrees (60°) Fahrenheit (except during power failures or periods when heating equipment is broken) at all times. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. Subject to any applicable limitations in the Act, the Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association.

(k) Signs, Advertising Posters, Political Placards, Banners, Flags, Stickers, Billboards, Speakers, Lighting, Awnings, Canopies or Shutters. Except as may be provided for herein or as may be required by legal proceedings, and except for signs that may be erected by Declarant related to the development and sale of Units, signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies or shutters of any kind may be erected, placed, or permitted to remain on the Condominium only in accordance with Section 13.3 of the Master Declaration.

(l) Rubbish, Trash and Garbage. All rubbish, trash and garbage shall be regularly removed from a Unit and shall not be allowed to accumulate therein. No rubbish, trash or garbage shall be placed on the Common Elements (except for those portions of the Common Elements designated as recycling areas) or Limited Common Elements outside of the Unit, temporarily or otherwise, and shall be moved to the Condominium trash facilities for collection, or otherwise removed from the Condominium by an Owner or Occupant. Notwithstanding anything to the contrary stated herein, only ordinary household trash shall be disposed of in sealed trash bags (not greater than 13-gallon trash bags) and placed in the trash chute. Cardboard boxes and other large bulky items that do not fit within a 13-gallon trash bag shall be moved to the Condominium trash facilities for collection, or otherwise removed from the Condominium by an Owner or Occupant. All Owners and Occupants shall refrain from using the trash chute between the hours of 10:00 p.m. and 8:00 a.m. In addition, all Owners and Occupants acknowledge that use of the trash chute may create noise and vibration, and that such noise and vibration shall not constitute an interference or disruption to the use and quiet enjoyment of a Unit.

(m) Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the

Condominium. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Unit.

(n) Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

(o) Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Condominium, including the Unit or Limited Common Elements; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(i) No transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units, without written approval of the Master Architectural Control Committee.

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one meter in diameter shall be placed, allowed or maintained upon the Condominium, including the Units and the Limited Common Elements.

(iii) Subject to the last sentence of this subparagraph 14(n), DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, and only if and to the extent such rules mandate that such dishes or antennas be allowed, both as may be amended from time to time. In such event, to the extent permissible under the FCC rules and regulations, (A) such satellite dishes and antennas shall not be located above a line 3-feet (3') from the floor of the balconies or outside of the balcony railings, (B) such satellite dishes and antennas shall be in a uniform color designated by the Master Architectural Control Committee, and (C) the Master Architectural Control Committee may designate and restrict the specific location and color of such satellite dishes and antennas. To the extent that any of the foregoing subsections (A) through (C) is not permitted under the FCC rules and regulations, the remaining portion of this subparagraph (o) shall survive independently to the extent permissible under the FCC rules and regulations.

In the event of a transfer of the Unit that includes a satellite dish or antenna, the Grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

To the extent allowed by FCC rules and regulations, the Association shall maintain at its expense a master DBS dish or antenna system that Owners and Occupants shall be required to utilize in lieu of individual DBS dishes and antennae.

(p) Window Treatments. Declarant shall install blinds of uniform size, color and design in each Residential Unit. Owners and Occupants of Residential Units shall not be permitted to remove such window treatments originally installed by Declarant and shall be responsible for maintaining and keeping in good repair such window treatments. Notwithstanding the foregoing, an Owner or Occupant of a Residential Unit may replace the window treatments with the prior written approval of the Master Architectural Control Committee, provided that the color of such alternative window treatments visible from outside any portion of the Unit is backed in silver lining. Under no circumstances shall there be allowed a canopy or awning to be placed by an Owner on the exterior of a Unit or over its balcony or terrace.

(q) Grilling. The use of outdoor grills, with the exception of electric grills, in any portion of the Condominium, including, without limitation, a balcony, shall be governed by state laws and local ordinances having jurisdiction over the Condominium and the Atlantic Station District Declaration, Atlantic Station Master Declaration, and Building Site Declaration.

(r) Abandoned Personal Property. Personal property, other than vehicles as provided for in subparagraph (i) shall not be kept, or allowed to remain for more than one (1) hour upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board of Directors determines that a violation exists, then, the Board of Directors may remove and either discard or store the personal property in a location that the Board of Directors may determine and shall have no obligation to return, replace or reimburse the owner of the property; provided, however, in such case, the Board of Directors shall give the property owner, if known, notice of the removal of the property and the disposition of the property within twenty-four (24) hours after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board of Directors may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(s) Sale Period. Notwithstanding any provision contained in this Declaration to the contrary, during the period of the sale of the Units it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Units, including, but without limitation, business offices, signs, model Units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Condominium for such purposes and to use the Units owned by Declarant as model Units and as offices for the sale of the Units and related activities.

(t) Move In/Move Out. An Owner or Occupant shall not move furniture, personal property, construction materials, and other over-sized items in or out of the Condominium except during such hours and according to requirements to be determined by the Board of Directors. Furthermore, an Owner or Occupant shall reserve a date and time with the Board of Directors to use the elevators for moving furniture, personal property, construction materials, and other over-sized items in or out of the Condominium, and during such use of the elevators, the walls of the elevators being used for such purpose shall be covered with padded blankets. The Board of Directors, in its sole discretion, may require a non-refundable security deposit prior to using an elevator for moving furniture, construction materials or other over-sized items. The Board of Directors shall also be authorized to approve movers and/or moving companies that require access to the Condominium for the purpose of moving furniture, construction materials, and other over-sized items, on behalf of an Owner or Occupant, in or out of the Condominium, and such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary stated herein, an Owner or Occupant shall not leave unattended any furniture, personal property, construction materials, and other over-sized items on any portion of the Common Elements for any period of time.

15. LEASING.

In order to preserve the character of the Condominium as predominantly owner-occupied and to comply with the eligibility requirements for financing in the secondary mortgage market, the leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units shall be prohibited. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any Person other than the Owner. For purposes hereof, occupancy by a roommate of an Owner who occupies the Residential Unit as such Owner's primary residence shall not constitute Leasing hereunder.

(a) Leasing of Residential Units.

(i) General. Owners desiring to lease their Residential Units may do so only if they have applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Residential Unit provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All leasing Permits and Hardship Leasing Permits shall be valid only as to a specific Owner of a Residential Unit and shall not be transferable between either Residential Units or Owners of Residential Units, but shall be transferable to successors in title to the same Residential Unit.

(ii) Leasing Permits. An Owner's request for a Leasing Permit for a Residential Unit shall be approved if current, outstanding Leasing Permits have not been issued for more than twenty-five percent (25%) of the total number of Residential Units in the Condominium. A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (A) the failure of an Owner to lease his or her Residential Unit within one hundred eighty (180) days of the Leasing Permit having been issued; (B) the failure of an Owner to have his or her Unit leased for any consecutive one hundred eighty (180) day period thereafter; or (C) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit. If current Leasing Permits have been issued for more than twenty-five percent (25%) of the total number of Residential Units, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits) until the number of outstanding current Leasing Permits falls below twenty-five percent (25%) of the total number of Residential Units in the Condominium. An Owner of a Residential Unit who has been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued the same if they so desire when the number of current outstanding Leasing Permits issued falls to twenty-five percent (25%) or less of the total number of Residential Units in the Condominium. The issuance of a Hardship Leasing Permit to an Owner of a Residential Unit shall not cause the Owner of a Residential Unit to be removed from the waiting list for a Leasing Permit.

(iii) Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner of a Residential Unit may seek to lease his or her Residential Unit on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (A) the nature, degree, and likely duration of the hardship, (B) the harm, if any, which will result to the Condominium if the permit is approved, (C) the number of Hardship Leasing Permits that have been issued to other Owners of Residential Units, (D) the ability of the Owner of a Residential Unit to cure the hardship, and (E) whether previous Hardship Leasing Permits have been issued to the Owner of a Residential Unit. A "hardship" as described herein shall include, but not be limited to the following situations: (1) an Owner of a Residential Unit must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Residential Unit was placed on the market, sell the Residential Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner of a Residential Unit dies and the Residential Unit is being administered by his or her estate; and (3) the Owner of a Residential Unit takes a leave of absence or temporarily relocates and intends to return to reside in the Residential Unit. Hardship Leasing Permits shall be valid for a term not to exceed one (1) year. Owners of Residential Units may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner of a Residential Unit is approved for and receives a Leasing Permit.

(iv) Leasing Provisions. Leasing of a Residential Unit that is authorized, pursuant to permit, hereunder shall be governed by the following provisions:

(A) Notice. At least seven (7) days prior to entering into the lease of a Residential Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(B) General. Residential Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable. There shall be no subleasing of Residential Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Residential Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Residential Unit. The Owner must provide at Owner's sole expense the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(C) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Residential Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Residential Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Residential Unit in order to ensure such compliance. The Owner shall cause all Occupants of his or her Residential Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Residential Unit are fully liable and may be sanctioned for any such violation. If the lessee, or a Person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article V of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Residential Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the

Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Residential Unit.

(2) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

(3) Liability for Assessments. When a Residential Unit Owner who is leasing his or her Residential Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

b. Leasing of Commercial Units. The Commercial Units may be leased for only those purposes permitted for the Commercial Units as set forth in Paragraph 14(b) and shall be subject to the following provisions.

(i) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner of a Commercial Unit covenants and agrees that any lease of a Commercial Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Commercial Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Commercial Unit in order to ensure such compliance. The Owner of a Commercial Unit shall cause all Occupants of his or her Commercial Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Commercial Unit are fully liable and may be sanctioned for any such violation. If the lessee, or its employees, agents, or invitees, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner of a Commercial Unit and the lessee, and such fine may be assessed against the lessee in accordance with Article V of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Commercial Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Commercial Unit.

(B) Use of Common Elements. The Owner of a Commercial Unit transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner of a Commercial Unit has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

(C) Liability for Assessments. When an Owner of a Commercial Unit who is leasing his or her Commercial Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner of the Commercial Unit hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner of the Commercial Unit from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

c. Applicability of this Paragraph. Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by Declarant or one of its affiliates (regardless of whether said lease is entered into prior to or after the expiration of the Declarant Control Period), the Association, or the holder of any first Mortgage on a Residential Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a Residential Unit without first obtaining a permit in accordance with this Paragraph, and such Residential Units shall not be considered as being leased in determining the maximum number of Residential Units that may be leased in accordance with this Paragraph.

16. TRANSFER OR SALE OF UNITS.

An Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the purchase agreement (in the case of the purchase of a Unit) or transfer documents (in the case of the conveyance of a Unit without a purchase of said Unit). The Owner shall furnish to the Board of Directors as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board of Directors may reasonably require. In addition, the purchase agreement or transfer documents shall attach a copy of the Declaration and Bylaws. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

In addition, a non-refundable contribution to the working capital fund of the Association shall be paid to the Association by the purchaser of a Unit at the closing of each sale or resale of a Unit in the amount of two (2) months of the general assessment charges to such Unit in accordance with subparagraph 10(i) hereof.

Within seven (7) days after receiving title to a Unit, the new Owner shall give written notice to the Board of Directors of his or her ownership of the Unit. Upon failure of the new Owner to give the required notice within the seven (7) day time period provided herein, the Board of Directors may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

17. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all Limited Common Elements assigned to the Unit except any portion of a Unit and/or Limited Common Element that is expressly made the maintenance obligation of the Association as set forth in subparagraph (b) below or as expressly provided otherwise in the Master Declaration. This maintenance responsibility shall include, but not be limited to the following: all exterior glass surfaces (excluding exterior cleaning, with the exception of the glass surfaces located adjacent to a Limited Common Element balcony or terrace), casings and locks (including interior caulking of the window wall system); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors and door frames of the Condominium); all portions of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit; and all pipes, lines, ducts, conduits, or other apparatus that serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

In addition, each Owner shall have the responsibility:

- (i) to keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit;
- (ii) to perform his or her responsibilities in such manner so as not to unreasonably disturb other persons in other Units;
- (iii) to promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible; and
- (iv) to pay for the cost of repairing, replacing or cleaning up any item that is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Owner's next chargeable assessment.

(b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes the following:

- (i) all Common Elements, including, but not limited to, the Limited Common Elements assigned to a Unit; provided, however, the cost of maintenance and repair of a Limited Common Element may be assessed against the Owner of the Unit to which the Limited Common Element is assigned under subparagraph 8(b)(i);

(ii) periodic painting, staining, caulking and/or cleaning of exterior surfaces of the Condominium, exterior window frames, and entry doors and door frames facing the hallways of the Condominium, on a schedule to be determined by the Board of Directors; and

(iii) periodic cleaning of the exterior glass surfaces (excluding the glass surfaces located adjacent to a Limited Common Element balcony or terrace) on a schedule to be determined by the Board of Directors.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or the Master Association, or (ii) such property is dedicated to any local, state or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board of Directors determined that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall repair incidental damage to any Unit resulting from performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice such duties as are approved by the Board of Directors.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice that may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment that the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property that may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

(c) Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided, then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

If the Board of Directors determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Unit, shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

(d) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Condominium that are the maintenance responsibility of the Owner, which will, in the sole discretion of the Board of Directors, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association or Master Association for any insurance coverage or otherwise assist the Association or Master Association in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association and Master Association to inspect the smoke detectors and replace batteries if needed on a schedule to be determined by the Association or Master Association's Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Association or Master Association's Board of Directors may reasonably require so long as the cost of such work does not exceed Three Hundred Dollars (\$300) per Unit in any twelve (12) month period.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (d)(i) above, the Association, upon fifteen (15) days written notice (during which period the Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board of Directors pursuant to subparagraph (d)(i) of this Paragraph, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

(e) Mold and/or Mildew. Mold and/or mildew can grow in any portion of the Condominium that is exposed to elevated levels of moisture. Therefore, upon expiration of Declarant Control Period, the Association and each Owner agree to: (i) regularly inspect the parts of the Condominium that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion (except when the water intrusion is part of the normal functioning of improvements and appliances such as showers, sinks, dishwashers, and other similar appliances and improvements) and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Condominium that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they respectively maintain

in accordance with current industry-accepted methods. In addition, the Association agrees to notify the Owners, and each Owner agrees to notify the Association of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Condominium that they respectively maintain. Each Owner further agrees not to block or cover any of the heating, ventilation or air-conditioning ducts located in the Unit.

Notwithstanding anything to the contrary herein, Declarant shall have no obligation to perform any invasive testing or inspections, maintenance or repairs in accordance with this subparagraph 17(e), and shall not be held liable for any loss or damage caused by the failure of the Association or an Owner to perform their obligations herein.

(f) Inspection Obligations

(i) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Condominium.

(ii) Inspection Responsibilities. Declarant shall provide the Association with maintenance criteria, maintenance manuals, and warranty requirements for the Building (collectively the "Maintenance Manual"). The inspectors shall inspect component parts of the Building in accordance with the Maintenance Manual. The Association shall update the Maintenance Manual on a regular basis. The Association shall be responsible for meeting all requirements under such Maintenance Manual.

(iii) Schedule of Inspections. Such inspections shall take place at least annually or as recommended in the Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board of Directors shall report the contents of such written reports to the members of the Association at the next meeting of the members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Declaration below, the Board of Directors shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(iv) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Unit in the Condominium to an Owner other than Declarant, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

(v) The provisions of this subparagraph 17(f) shall not apply during the period Declarant appoints any members of the Board of Directors in accordance with Article III, Part A, Section 2 of the Bylaws.

18. MORTGAGEE'S RIGHTS.

(a) Unless at least two-thirds (2/3) of the first Mortgagees and Owners give their consent, the Association or the membership shall not:

- (i) by act or omission seek to abandon or terminate the Condominium;
- (ii) change the pro rata interest or obligations of any individual Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (2) determining the pro rata share of ownership of each Unit in the Common Elements;
- (iii) partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;
- (iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or
- (v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Owners where a larger percentage vote is otherwise required by the Act or the Condominium Instruments for any of the actions contained in this Paragraph.

(b) Where the Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit) or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable, nor shall the Unit be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to such Unit that became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

- (i) any condemnation loss or any casualty loss that affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgage Holder;
- (ii) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder that remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Owner of any other obligation under the Condominium Instruments that is not cured within sixty (60) days;
- (iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (iv) any proposed action that would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(d) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder, or insurer or guarantor of a first Mortgage on a Unit, will be entitled to timely written notice of:

any Mortgagee shall be deemed the same as if would have been made, done and performed by any Owner or Occupant of any Unit encumbered by a Mortgage granted to such Mortgagee hereto instead of by said Mortgagee.

(k) No Invalidity of Mortgage Lien. No violation of the Condominium Instruments, by, or enforcement of the Condominium Instruments against, any party shall impair, defeat or render invalid the lien of any Mortgage.

(l) Mortgagee Requirements. The Board agrees to cooperate reasonably with any requesting party in regard to the satisfaction of requests or requirements by a Mortgagee; provided, however, such cooperation shall be at the sole cost and expense of the requesting party, and provided, further, that no party shall be deemed obligated to accede to any request or requirement that materially and adversely affects its rights under the Condominium Instruments.

(m) Rights of First Refusal. Each holder of a first Mortgage encumbering any Unit which obtains title to such Unit pursuant to: (a) remedies provided in such Mortgage, or (b) by accepting a deed (or assignment) in lieu of foreclosure in the event of default by an Owner, shall be exempt from any "right of first refusal," if any, contained in this Declaration or the Bylaws. Further, any such "right of first refusal" shall not impair the rights of a Mortgagee or interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagee.

(n) Financial Statements; Meetings. All Mortgagees, upon written request to the Board, shall have the right to (i) require the Board to submit an annual audited financial statement for the preceding fiscal year within one hundred twenty (120) days of the end of the Association's fiscal year, if one is available, or have one prepared at the expense of the requesting entity if such statement is not otherwise prepared by the Board, (ii) receive written notice of all meetings of the Owners, and (iii) designate in writing a representative to attend all such meetings.

(o) Additional Material Change Notices. All Mortgagees, upon written request to the Board, shall be given thirty (30) days' written notice prior to the effective date of (i) any proposed material amendment to the Condominium restrictions or Condominium plans; and (ii) any termination of an agreement for professional management of the Property following any decision of the Owners to assume self-management of the Master Condominium.

(p) Fremont as Assignee of Declarant's Rights. Notwithstanding any provision to the contrary in any Condominium Instrument it is understood that Declarant has assigned all of its rights, including voting, management and control rights under all condominium purchase agreements, deposits, and the other Condominium Instruments, including the Bylaws and the Declaration, to Fremont Investment & Loan ("Fremont") as collateral for a loan from Fremont to Declarant and that upon notice to any party from Fremont, Fremont shall be entitled to exercise exclusively all of Declarant's rights under such documents and any party shall be entitled to rely on such notice from Fremont and WN Atlantic Properties, LLC, shall indemnify the relying party from any loss sustained by reliance on such notice from Fremont.

(q) Construction of this Paragraph. Nothing contained in this Paragraph shall be construed to reduce the percentage vote that must otherwise be obtained under the Condominium Instruments or Georgia law for any of the actions set forth in this Paragraph.

19. GENERAL PROVISIONS.

(a) Supremacy of the Master Declaration and Easement and Cost Sharing Agreement. Every Owner, by acceptance of deed to a Unit, acknowledges that, in addition to being subject to and bound by the Condominium Instruments, he or she is subject to the Master Declaration and Easement and Cost Sharing Agreement. In addition

to all of the rights and obligations that have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Declaration and the Easement and Cost Sharing Agreement. The Association and all committees thereof shall also be subject to all superior rights and powers that have been conferred upon the Master Association, pursuant to the Master Declaration, and as such, decisions made from time to time by the Master Association may affect the rights and interests of an Owner or Occupant. The Association shall take no action in derogation of the rights of or contrary to the interests of the Master Association. Each Owner and Occupant acknowledges and agrees that the Hotel Component is entitled to appoint three (3) of the five (5) total votes of the Master Association members and directors.

(b) Powers of the Master Association Relating to the Association. The Master Association shall have the authority to veto any action taken or contemplated to be taken by the Association, which the board of directors of the Master Association reasonably determines to be adverse to the interests of the Master Association or its members. The Master Association shall also have the authority to require specific action to be taken by the Association in connection with its obligations and responsibilities hereunder, under the Master Declaration, or under any other covenants or instruments affecting the Condominium. Without limiting the generality of the foregoing, the Master Association may require specific maintenance or repairs of aesthetic changes to be effectuated by the Association, may require that a proposed budget include certain items and that expenditures be made therefore, and may veto or cancel any contract providing for maintenance, repair or replacement of any portion of the Condominium.

The Master Association shall give the Association written notice of any action required to be taken by the Association pursuant to this subparagraph 19(b). Such action shall be taken within the time frame set forth in such written notice. If the Association fails to comply with the requirements set forth in the notice, the Master Association shall have the right to effect such action on behalf of the Association and shall assess Owners for their pro-rata share of any expenses incurred in connection with the foregoing in the manner provided in the Master Declaration. Such assessments may be collected as a special assessment thereunder and shall be subject to all lien rights provided for therein.

(c) **SECURITY.** THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY ON THE CONDOMINIUM; HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE CONDOMINIUM AND COMMIT CRIMINAL ACTS ON THE CONDOMINIUM NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE CONDOMINIUM WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SAFETY MEASURES UNDERTAKEN.

(d) Dispute Resolution.

(i) Prior to filing a lawsuit against the Association, the Board of Directors, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any

member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board of Directors and resolve the dispute in an amicable fashion, and shall give the Board of Directors a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board of Directors shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board of Directors shall schedule this hearing for a date not less than seven (7) or more than twenty-one (21) days from the date of receipt of the request.

(ii) Each and every claim and cause of action arising out of or related in any way to the design, construction, sale, maintenance, habitability or, condition of any Unit or the Common Elements of the Condominium that is asserted against Dunn Southeast, Inc. d/b/a R.J. Griffin & Company (hereinafter referred to in this subparagraph as "Contractor") or Declarant or its affiliates by the Association or by Owners shall be resolved by final and binding arbitration in accordance with the terms and provisions set forth herein:

(A) The Association is hereby authorized to act as the exclusive representative of all Owners in asserting any claims and causes of action relating to the Common Elements of the Condominium (including the Limited Common Elements) and to any portion of the Units that is the responsibility of the Association to maintain, repair, and replace. Each Owner does hereby appoint the Association to exclusively act as its power of attorney (which power shall be irrevocable) with respect to the above referenced claims and causes of action including the right to compromise and settle the same. No Owner shall assert a claim or cause of action relating to the Common Elements except through the Association.

(B) All arbitrations in which the Association is a party shall be resolved before a panel of three (3) arbitrators pursuant to the Rules of the American Arbitration Association.

(C) All arbitrations in which an Owner is a party (and the Association is not a party) shall be resolved before one (1) arbitrator pursuant to the Rules of the American Arbitration Association.

(D) The arbitration shall be conducted by a company actively involved in the dispute resolution business and mutually agreeable to all parties. In the event all parties cannot agree on an arbitrator, the arbitration shall be conducted by Resolution Resources Corporation of Georgia, Inc.

(E) The arbitration hearing shall be conducted in Atlanta, Georgia. All claims and causes of action of all persons and entities entitled to enforce (or bound by) this arbitration provision shall be asserted in a single arbitration proceeding, and multiple parties may be joined in the arbitration proceeding so that all disputes may be resolved in one forum. No claim or cause of action may be asserted that would be barred by the statute of limitations or the statute of repose.

(F) In any arbitration proceeding, requests for production of documents may be served by each party, and non-privileged, responsive documents that would be discoverable under Rule 34 of the Federal Rules of Civil Procedure (were the claims and causes of action being asserted in United State District Court) shall be produced. Depositions may be taken as allowed by the arbitration panel, which panel shall reasonably limit the number of depositions in order to avoid unnecessary or excessive expense, delay, or harassment.

(G) The arbitration panel shall issue a written decision within thirty (30) days after the final hearing identifying with specificity each claim or cause of action asserted or resolved

in any arbitration, and the legal principles of *res judicata* and collateral estoppel shall be applicable to any arbitration award. Any arbitration award may be confirmed and enforced in any court of competent jurisdiction.

(H) This arbitration provision is expressly intended to benefit and be enforceable by each person and entity referenced in this subparagraph 19(c) whether or not such person or entity is bound by this arbitration provision. Any attempt by any such person or entity to enforce this arbitration provision shall constitute conclusive evidence of its intent to be bound hereby. Any portion of this provision that may be held to be unenforceable shall be severable from the balance of this provision so that the remainder of this provision shall remain in full force and effect. Costs of the arbitration and awards of attorneys' fees may be included in the decision of the panel.

(e) Parking Spaces and Vehicles. Declarant, Association, Master Association or any other owners of Components of the Master Condominium shall not be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage resulting from water or acid damage, to any property placed or kept in any parking space in the Condominium. Each Owner or Occupant with use of a parking space who places or keeps a vehicle and/or any personal property in the vehicle or parking space does so at his or her own risk.

(f) Unit Keys. At the request of the Association, each Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit and the security alarm code, if any, to be used by the Association for maintenance, emergency, life-safety purposes as provided in subparagraph 9(a) of this Declaration and for pest control, if necessary, as provided in subparagraph 21(e) of this Declaration. Neither Declarant nor the Association shall be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Owner shall indemnify and hold harmless Declarant, the Association and its officers and directors against any and all expenses, including reasonable attorneys' fees, actually incurred by or imposed upon Declarant, the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Owner or the Owner's family, tenants, guests, employees, invitees, or licensees against Declarant, the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

(g) Right of Action. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged construction defect (as such term is defined in O.C.G.A. § 8-2-36) in any Unit, the Common Elements or the Limited Common Elements, or any damage allegedly sustained by any Owner by reason thereof, except the Association may bring an action against a Contractor to recover damages resulting from construction defects in any of the Common Elements or Limited Common Elements. Such action may be maintained only after:

(i) The Association first obtains the written approval of each Owner whose interest in the Common Elements or Limited Common Elements will be the subject of the action;

(ii) A vote or written agreement of the Owners to which at least a majority of the votes of the members of the Association are allocated;

(iii) The Board and the Contractor have met in Person and conferred in a good faith attempt to resolve the Association's claim or Contractor has definitively declined or ignored the requests to meet with the Board; and

(iv) The Association has otherwise satisfied all of the pre-action requirements for a claimant to commence an action as set forth in O.C.G.A. § 8-2-35, et seq.

Notwithstanding the above, after the expiration of the Declarant Control Period, the Board of Directors may negotiate the resolution of any alleged defect(s) in the Common Elements or Limited Common Elements on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns. As set forth in Paragraph 22 hereof, no amendment to this Declaration shall (i) modify, alter, or delete any provision of this Declaration that benefits the Declarant or any rights, privileges, easements, protections, or defenses of the Declarant; or (ii) alter the rights of the Owners or the Association in relationship to the Declarant, without the written consent of the Declarant attached to and recorded with such amendment.

(h) Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Condominium or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

(i) Use and Conveyance of Commercial Unit(s) by Declarant to Association.

(i) Declarant may, but is not required to, give the Owners and/or the Association the right to use any unoccupied Commercial Unit(s). The duration, terms, and conditions of such usage are at the discretion of Declarant and may be unilaterally changed by Declarant from time to time. If Owners and/or Association are given the right by Declarant to use any Commercial Unit(s) owned by Declarant, then the Association shall be responsible for paying for insurance, property taxes, and the cost of maintaining and repairing such Commercial Unit(s).

(ii) Declarant may, but shall not be obligated to, transfer or convey to the Association the Commercial Unit(s) which are subject to the terms of this Declaration. Any such conveyance shall be accepted by the Association, and the Commercial Unit(s) shall thereafter be maintained by the Association. Declarant shall not be required to make any improvements whatsoever to the Commercial Unit(s) to be conveyed and accepted pursuant to this subparagraph.

(j) Disclosures. Each Owner and Occupant acknowledges and understands the following:

(i) The Condominium is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(ii) The natural light available to and views from a Unit may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.

(iii) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(iv) No representations are made regarding the schools that currently or may in the future serve the Condominium.

(v) Since in every community there are conditions which different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium that an Owner or Occupant finds objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Unit.

(vi) Exposed concrete surfaces in portions of the Building that are not heated and cooled are subject to cracking due to (A) water penetration, (B) expansion and contraction of the concrete with temperature changes, and (C) building settlement.

(vii) Concrete surfaces in heated and cooled portions of the Building are subject to cracking due to building settlement.

(viii) Concrete and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise, and such noise shall not constitute a use of Unit that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and/or Occupant.

(ix) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another or from the Common Elements to a Unit.

(x) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Owner that is concerned about any representations regarding the Floor Plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit.

(xi) Declarant will be constructing portions of the Condominium and engaging in other construction activities related to the construction of Common Elements, Units, and Additional Property. Such construction activities may, from time to time, produce certain conditions on the Condominium, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the security or safety of Persons on the Condominium. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Condominium resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

(xii) The Unit may trap humidity created by general use and occupation of such space (cooking, bathing, laundering, etc.). As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by the Owners and Occupants, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold (see subparagraph 17(e) hereof).

(xiii) The exterior skin of the Building is a hard-coat stucco material.

(xiv) The Building is constructed with a flat roof system. Rainwater and refuse may accumulate on various portions of the Building's roof system and should be anticipated by the Owners and Occupants. Minimizing water intrusion and water penetrations may be possible if the Building's roof systems are properly maintained by the parties responsible for providing such maintenance, as more specifically set forth in Paragraph 17 hereof.

(xv) An affiliate of Declarant is also an affiliate of Biltmore Communications, Inc., which is the telecommunications service provider under a seven (7) year exclusive marketing contract with Declarant to provide satellite television access, high-speed internet services, and other services to the Building (the "Telecommunications Agreement"). The Association is assuming the obligations of Declarant under the Telecommunications Agreement, and this Declaration is made subject and subordinate to the Telecommunications Agreement. The Telecommunications Agreement provides that the Association may elect to cease the bulk services under the Telecommunications Agreement during a period following Declarant Control Period and continue to allow services to be provided on a Unit-by-Unit basis. The initial Telecommunications Agreement includes a \$3.50 per month per Unit charge to

maintain certain systems, and these charges shall be paid as part of the Common Expense of the Association. In the case of high-speed data services and direct broadcast satellite access provided to the Condominium, the bulk arrangement fee (which shall only cover access to the common satellite and shall exclude programming) shall be paid as part of the Common Expense of the Association.

(xvi) Declarant has reserved for itself and its successors, assigns and Permittees an exclusive, perpetual and irrevocable easement, license and right to use the areas defined in the Master Declaration as the "Telecommunications Easement Area" in which it will have the exclusive right within the Master Condominium Property to install and operate telecommunications equipment (subject to the rights of the Master Association to use portions of the roof areas to provide telecommunications services to Occupants of the Building).

(xvii) The Building was constructed pursuant to plans and specifications prepared by licensed professionals and permits issued by the City of Atlanta and Fulton County. During the course of the construction of any building, including the Building, variations from the original plans and specifications, some of which add scope, some of which reduce scope, and some of which alter scope, are inevitable and can, do, and did occur as a matter of intention and/or as a matter of necessity. While the Building was constructed according to standard building practices and building codes existing at the time of the submission of the plans and specifications for the Building for permit, some code requirements may have changed during the interim period which were not incorporated into the design of the Building.

(xviii) Declarant shall have no liability should the Master Condominium or the Condominium be forced to change its name. Declarant shall have no duty to contest any claim asserting that the name "Atlantic 17th" should be changed. Each Owner shall, by taking title to a Unit, acknowledge that the name "Atlantic 17th" was in no way an inducement to purchase, to not sell after purchase, or to expend funds in detrimental reliance on the name remaining "Atlantic 17th." During Declarant Control Period (as defined in the Master Declaration), Declarant shall have the right in its sole discretion to change the name of the Master Condominium or the Condominium without notice to any person.

(xix) The retail spaces located on the ground floor of the Building, shall be permitted pursuant to the Master Declaration, to erect signage, advertising posters, political placards, billboards, speakers, lighting, awnings, canopies or shutters on the exterior facades of the Building that are associated with the uses of such retail spaces. Each Owner and Occupant further acknowledge and agree that during the time in which Declarant of the Master Condominium owns any retail portion of the Master Condominium, Declarant of the Master Condominium shall have the right to approve, in its sole discretion, all signage, advertising posters, political placards, billboards, speakers, lighting, awnings, canopies or shutters.

(xx) Restaurant noise and odor and other noise and odor related to retail service and other businesses may emanate from the retail and hotel spaces located on the ground floor of the Building.

(xxi) Improvements may have been constructed on adjoining lands that encroach onto the Master Condominium Property. Declarant gives no representations or warranties as to property rights, if any, created by such any such encroachments.

(xxii) Twelve Hotels and Residences, LLC, an affiliated entity of Declarant, may provide property management services to the Condominium pursuant to a service agreement between Twelve Hotels and Residences, LLC, and the Association.

(xxiii) Declarant shall not be responsible for responding to or taking any affirmative action on behalf of the Association or an individual member of the Association to mitigate, alleviate, remedy or cure any off-site conditions that may directly impact the Condominium or any portion thereof, and such

inaction by Declarant shall not constitute a breach of fiduciary duty by the directors and officers of the Association that are appointed by Declarant, pursuant to Article III, Part A, Section 2 of the Bylaws of the Association.

(xxiv) While the drainage system for surface water runoff on the Condominium will be constructed in accordance with applicable governmental standards, the Condominium may still be subject to erosion and/or flooding during unusually intense or prolonged periods of rain.

(xxv) The use of the trash chute may create noise and vibration, and such noise and vibration shall not constitute an interference or disruption to the use and quiet enjoyment of the Unit. The trash chute and related facilities may also emanate undesirable odors.

(xxvi) Certain Units require long vents for the dryer. Each Owner is responsible for determining whether such a vent is required for any dryer located in such Owner's Unit. The failure of an Owner to utilize the appropriate dryer vent may create a fire hazard for which such Owner shall be responsible.

(xxvii) Declarant makes no representations or warranties regarding any electronic media equipment located in the Common Elements (including, but not limited to plasma televisions). Such equipment may need repairs or replacement in the future and Declarant shall not be responsible for such repairs or replacement under any circumstances.

(xxviii) Water may drip onto any vehicle from the parking deck level above the level on which the vehicle is parked or located. Such dripping water may include calcium deposits which may cause damage to the vehicle. Damage to a vehicle may be limited if the owner of the vehicle immediately washes off any calcium deposits situated on the vehicle. Neither Seller, Master Association, nor the Association shall be held liable for any loss or damage resulting from such calcium deposits to any vehicle.

(xxix) Railings attached to Limited Common Element terraces and balconies that are constructed of a fiberglass material may "hum" in windy conditions.

(xxx) The aluminum window system contracts and expands as the weather warms and cools and this may result in "popping" noises.

(i) Services During Declarant Control. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as this Condominium including, but not limited to, management services. Each Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

(j) Termination of Condominium. The Condominium shall be terminated only by the agreement of Owners of Units to which eighty percent (80%) of the votes in the Association pertain and all Mortgagees of such Units, and such other requirements as more specifically set forth in Section 44-3-98 of the Act. Upon the effective date of a termination agreement, all of the property constituting the Condominium shall be owned by the Owners as tenants in common and shall be in proportion to their respective undivided interests in the Common Elements immediately prior to the effective date of the termination agreement. Notwithstanding anything to the contrary stated herein, in the event of the termination of the Condominium, the Owners shall, within thirty (30) days of the effective date of the termination agreement, elect a representative to serve on the board of directors of the Master Association, and such elected representative shall be authorized to act on behalf of the collective property owners with respect to all matters pertaining to the property that prior to termination constituted the Condominium as it relates to the Master Condominium. The election of said representative shall be conducted in accordance with the procedures set forth in the Bylaws.

(k) Use of Names. The name "Atlantic 17th" is not a trade name. Notwithstanding the foregoing, no person shall use the name "Atlantic 17th, A Residential Condominium" or any derivative of such name in any printed or promotional materials without Declarant's prior written consent. However, Owners may use the name "Atlantic 17th, A Residential Condominium" in printed or promotional materials prepared in connection with the sale or rental of their respective Unit where such term is used solely to specify that such Unit is located within Atlantic 17th, A Residential Condominium, and the Association shall be entitled to use the words "Atlantic 17th, A Residential Condominium" in its name. The Association shall not use any name, mark or symbol of Declarant or its affiliates without prior written consent. Any use by the Association of names, marks or symbols of Declarant or any of its affiliates shall inure to the benefit of Declarant or such affiliate and shall be subject to periodic review for quality control. The Association shall enter into license agreements with Declarant, terminable with or without cause and in a form specified by Declarant in its sole discretion, with respect to any permissive use of any such names, marks or symbols.

(l) Substantial Compliance With the Act. Each Owner acknowledges and agrees that Section 44-3-115 of the Act provides that the provisions of the Act and the Condominium Instruments recorded pursuant to the Act shall be liberally construed in favor of the valid establishment of a condominium. Each Owner acknowledges that the substantial compliance provision of the Act set forth in Section 44-3-115 of the Act has not been interpreted judicially. Therefore, no representation and/or warranty is made regarding any possible judicial interpretation of Section 44-3-115 of the Act. Furthermore, each Owner, on behalf of itself and its successors and assigns in title, acknowledges and agrees that the Condominium Instruments recorded pursuant to the Act substantially comply with the requirements of the Act and covenants and agrees not to file any type of suit or arbitration challenging the Condominium Instruments on the grounds that they do not strictly comply with the requirements of the Act.

20. EMINENT DOMAIN.

In the event of a taking by condemnation or by eminent domain, the provisions of the Act shall prevail and govern; provided, however, that any proceeds received for a taking of the Common Elements (other than Limited Common Elements) by condemnation or eminent domain shall, at the option of the Board of Directors, either be allocated to the Owners pursuant to Section 44-3-97(a) of the Act, as amended, or be deposited into the Association's operating account or reserve account to be applied to Common Expenses. Each holder of a first Mortgage shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Owner in the distribution of proceeds to such Unit.

21. EASEMENTS.

(a) Use and Enjoyment. Each Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) the right of the Association and/or the Master Association, as the case may be, to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (iii) the right of the Association to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Condominium Instruments, including without limitation, the maintenance responsibility of the Association.

(b) Support. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with a non-exclusive easement of support for the benefit of such abutting Unit.

(c) Encroachments. To the extent any Unit or Common Elements encroaches on any other Unit or Common Elements, a valid easement for such encroachment shall exist if the encroachment exists as a result of: (i) any deviation from the Survey in the initial construction of the Building or any improvements related thereto; (ii) settling or shifting of the Building or any improvements related thereto; (iii) any alteration or repair to the Common Elements or Units made by or with the consent of the Association or Declarant, as appropriate, or (iv) any repair or restoration of the Building (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements.

(d) Utilities. To the extent that the sprinkler system or any utility line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Components that may require repair or replacement, such as tile and trim, will be reinstalled only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall appliqué, and any other similar types of finishes, will not be the responsibility of the benefited Owner.

(e) Pest Control. The Association may, but shall not be obligated to, dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

(f) Easements Reserved to Declarant.

(i) Marketing and Sales. For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (A) a non-exclusive easement for access and ingress to, egress from and use of the Common Elements for the placement and maintenance of signs, banners, balloons, decorations, marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model Units on any portion of the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Unit, or any portion thereof; and (B) a non-exclusive easement to use and enjoy the Common Elements for special events, promotional activities and grand opening celebrations. In connection with the hosting of special events, promotional activities and grand opening celebrations in the Common Elements, Declarant shall be permitted to have live entertainment, and any noise created therefrom shall not be deemed a nuisance and shall not cause Declarant and its representatives, agents, associates, employees, tenants and guests to be deemed in violation of any provision of this Declaration, the Master Declaration or any other declaration or governing rules of a sub-community created from the Master Condominium.

(ii) Inspection. Declarant hereby reserves a perpetual, non-exclusive easement for the purpose of access for ingress and egress over the Condominium, including the Units, the Common Elements, and Limited Common Elements, to inspect, examine, survey, photograph, and perform such tests, inspections, studies or other evaluations of the Condominium as Declarant and its agents, employees or contractors, or others may deem necessary in conjunction with Declarant's review of construction conditions on the Condominium. The foregoing easement shall expire upon the occurrence of the later of the following events: (A) the date upon which Declarant no longer owns any Unit; (B) the date upon which Declarant Control Period (as such term is defined in the Master Declaration) expires; or (C) ten (10) years after the date on which this Declaration is recorded in the Official Records. To the extent that damage is inflicted on the Common Elements, Limited Common Elements, or on any Unit through which access is taken, Declarant, whether by itself or through agents, employees, contractors, or others, shall be liable for the prompt repair thereof.

(g) Easements in Favor of Additional Property Owner. There is reserved to Declarant and its successors and assigns, including any purchaser of the Additional Property, a non-exclusive easement upon, across, above and under all property within the Condominium (including the Common Elements and Limited Common Elements) for purposes of developing the Additional Property whether or not it is developed as part of the Condominium. In accordance therewith and until such time as Declarant or its successors record an amendment to the Declaration effecting the submission of the Additional Property (which is not required), then it shall be expressly permissible for Declarant and its successors and assigns to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient or incidental to Declarant's development, construction and sales activities related to developing the Additional Property whether or not it is developed as part of the Condominium including, but without limitation, the following:

- (i) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Condominium;
- (ii) the right to tie into and/or otherwise connect and use (without a tap on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Condominium;
- (iii) the right to carry on sales and promotional activities in the community and the right to construct and operate business offices, signs, construction trailers, residences, model Units, and sales offices. Declarant may use residences, offices or other Units owned or used by Declarant as model Units and sales offices.

Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at his or her sole expense. This Paragraph shall not be amended without Declarant or Declarant's successor and assign's express written consent, so long as the Additional Property has not been submitted to the Condominium

22. AMENDMENTS.

Except where a higher vote is required for action under any other provision of this Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds (2/3) of the Total Association Vote and such amendment shall otherwise comply with the provisions of Section 44-3-93 of the Act. Moreover, no amendment to this Declaration shall modify, alter, abridge or delete any: (a) provision of this Declaration that benefits Declarant; (b) rights,

privileges, easements, protections, or defenses of Declarant; or (c) rights of the Owners or the Association in relationship to Declarant, without the written consent of Declarant attached to and recorded with such amendment, until the later of the following: (i) the date upon which Declarant no longer owns any Unit; or (ii) ten (10) years after the date on which this Declaration is recorded in the Official Records. Notwithstanding the foregoing, the easements, rights, and licenses reserved to Declarant and its successors, assigns and Permittees in accordance with subparagraph 21(f)(ii) shall not be modified, altered, or deleted without Declarant's written consent.

In addition, no amendment to this Declaration shall (A) modify, alter, or delete the permissible uses of the Commercial Units; (B) interfere with the ownership or operation of the Commercial Units; or (C) modify, alter, or delete any: (1) provision of this Declaration that benefits the Owners of the Commercial Units; (2) rights, privileges, easements, protections, or defenses of the Owners of the Commercial Units; or (3) rights of the Owners or the Association in relationship to the Owners of the Commercial Units, without the written consent of the Owners of the Commercial Units attached to and recorded with such amendment.

In addition, no amendment to this Declaration shall conflict with the provisions of the Master Declaration or modify, abridge, alter, or delete the rights, privileges, easements, protections, or defenses of the Master Association as provided in this Declaration without the written consent of the Master Association attached to and recorded with such amendment.

Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and secretary of the Association and recorded in the Official Records.

In addition to the above, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested and states the following in bold capitalized text: "YOUR FAILURE TO RESPOND WITHIN 30 DAYS FROM RECEIPT OF THIS NOTICE SHALL BE DEEMED YOUR CONSENT IN ACCORDANCE WITH THE APPLICABLE RECORDED CONDOMINIUM DECLARATION(S)." Material amendments are those that establish, provide for, govern or regulate any of the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the Common Elements;
- (d) Insurance or fidelity bonds;
- (e) Rights to use of the Common Elements;
- (f) Responsibility for maintenance and repair of the Condominium;
- (g) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium, except the submission of the Additional Property to the Condominium as set forth in this Declaration;

- (h) Boundaries of any Unit;
- (i) The interests in the Common Elements or Limited Common Elements;
- (j) Convertibility of Units into Common Elements or of Common Elements into Units;
- (k) Leasing of Units;
- (l) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- (m) Establishment of self-management by the Association where professional management has been required by any of the agencies or corporations set forth below;
- (n) Amendment of any provisions that are for the express benefit of Eligible Mortgage holders or insurers or guarantors of first Mortgages on Units in the Condominium; and
- (o) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the Condominium Instruments).

Notwithstanding the foregoing, Declarant or the Board of Directors, without the necessity of a vote from the Owners, may unilaterally amend this Declaration to: (i) correct any scrivener's errors; (ii) bring any provision of this Declaration into compliance with any applicable governmental statute, rule, regulation, judicial determination or rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law that shall be in conflict therewith; and (iii) enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Condominium.

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

23. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

24. DECLARANT RIGHTS.

Notwithstanding anything to the contrary herein, and in addition to Declarant's right to appoint and remove officers and directors under Article III, Part A, Section 2 of the Bylaws and other rights set forth herein, Declarant shall have the right, as long as Declarant owns at least one (1) Unit, to conduct such sales, marketing, leasing, administrative and other activities at the Condominium as Declarant deems appropriate for the sale, marketing or leasing of any Unit and Declarant shall have a non-exclusive easement right across the Common Elements to erect signs, banners, balloons and other decorations and to conduct such other sales, marketing and leasing activities as provided herein. The expiration of Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its respective successors and assigns as Declarant hereunder or divest Declarant of other rights specifically reserved to Declarant herein.

25. EXPANSION OF THE CONDOMINIUM.

Declarant reserves the option to expand the Condominium by adding to the Condominium all or any part of the Additional Property on one (1) or more occasions. Except for zoning and other governmental requirements, there are no limitations as to the location of improvements on the Additional Property. The Additional Property may be added as a whole at one time or portions may be added at different times. There are no limitations fixing the boundaries of any portion of the Additional Property that may be submitted to the Declaration, and there are no limitations regulating the order in which portions of the Additional Property may be submitted to this Declaration. This option shall expire seven (7) years from the date of recording of this Declaration; provided, however, Owners of Units to which two-thirds (2/3) of the Total Association Vote, excluding any votes appurtenant to any Unit or Units then owned by Declarant, may consent to the extension of this expansion option within one (1) year prior to the date upon which the option would have otherwise expired. The maximum number of Units that may be created on the Additional Property and added to the Condominium is two hundred (200). The maximum average number of Units per acre that may be created on any portion of property added to the Condominium is two hundred (200). No assurances are made that any improvements will be made on all or any of the Additional Property that may be submitted to the Declaration. The Additional Property shall not necessarily be restricted exclusively to residential use, but shall be subject only to uses allowed by applicable zoning ordinances. No assurances are made that the units which may be built on all or any portion of the Additional Property will be substantially identical to the Units on the submitted property in any way whatsoever, including but not limited to the quality of construction, the principal materials to be used in such construction and architectural style. All improvements to be located on each portion of the Additional Property that is being submitted to the Condominium shall be substantially complete prior to its submission to the Condominium. Declarant shall have the right to assign Limited Common Elements on the Additional Property, which may include Limited Common Elements different from those assigned in this Declaration and there shall be no limitations on the right to assign Limited Common Elements on the Additional Property. In addition, in the event that the Additional Property is added to the Condominium, Declarant shall have the right, but not the obligation, to assign portions of the existing Common Elements as Limited Common Elements to some or all of the Units existing as of the date of recording of this Declaration. The undivided interests in the Common Elements are allocated among the Units on the submitted property on the basis of the square footage of each Unit in comparison to the square footage of all Units, and, upon the expansion of the Condominium to include any portion of the Additional Property, shall be reallocated among the Units on the submitted property and the Additional Property on the same basis. Any expansion under this Paragraph shall be effected by Declarant's unilaterally executing and recording the amendments to this Declaration, the plats and the plans required by the Act, and to reflect any differences in the subsequent phase or phases as contemplated by this Paragraph, at Declarant's sole expense. The Units thereby created and added shall be owned by Declarant, but the Common Elements shall be owned by all of the Owners.

26. PREPARER.

This Declaration was prepared by Seth G. Weissman and Darryl R. Moss, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration on this 6th day of December, 2005.

DECLARANT:

WN ATLANTIC PROPERTIES, LLC,
a Georgia limited liability company

By: ATLANTIC WN PROPERTIES, INC.,
its Manager

By: J. Tucker Alford
Tucker Alford, its Secretary and Treasurer

Signed, sealed and delivered this
6th day of December, 2005
in the presence of: STACY L. GEORGE

[CORPORATE SEAL]

Stacy L. George
WITNESS

[Signature]
Notary Public:

My Commission Expires: Jan. 16, 2007

[NOTARY SEAL]



EXHIBIT "A"**LEGAL DESCRIPTION OF SUBMITTED PROPERTY**

All that tract or parcel of land lying and being in Land Lots 108 and 148 of the 17th District, Fulton County, Georgia and being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 108 and 148 of the 17th District, City of Atlanta, Fulton County, Georgia, lying at and above elevation 905.42 feet above "MSL" (which term means Mean Sea Level as determined by reference to the most current published datum by the U.S. Coast and Geodetic Service for Atlanta, Georgia, as of the date hereof), and being contained within the area formed by the boundary lines more particularly described as follows:

COMMENCE at Monument BFC 04 lying at State Plane Coordinates Northing 1,378,194.1172 and Easting 2,223,416.8937, NAD 83 West Zone, said monument also described as being located at the intersection of the easterly right-of-way line of Northside Drive (variable right-of-way width) and the southerly right-of-way line of the Norfolk Southern Railroad (variable right-of-way width); thence run North 68°57'34" East, a distance of 2,911.97 feet to a point on the southeasterly corner of a mitered intersection of the easterly right-of-way line of State Street (proposed variable right-of-way width) and the northerly right-of-way line of 17th Street (proposed 130' right-of-way width), said point being the TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence run along and coincident with said miter North 44°16'54" West, a distance of 14.14 feet to a point on the northwesterly corner of said miter; thence run along and coincident with the easterly right-of-way line of State Street North 00°43'05" East, a distance of 114.17 feet to a point; thence leave the easterly right-of-way line of State Street and run South 89°16'54" East, a distance of 170.70 feet to a point; thence run North 00°43'06" East, a distance of 65.00 feet to a point; thence run North 89°16'54" West, a distance of 170.70 feet to a point on the easterly right-of-way line of State Street; thence run along and coincident with the easterly right-of-way line of State Street North 00°43'05" East, a distance of 212.00 feet to a point; thence leave the easterly right-of-way line of State Street and run South 89°16'54" East, a distance of 212.48 feet to a point; thence run South 00°43'06" West, a distance of 98.75 feet to a point; thence run South 89°16'54" East, a distance of 17.67 feet to a point; thence run South 00°43'06" West, a distance of 4.83 feet to a point; thence run South 44°16'54" East, a distance of 43.02 feet to a point; thence run South 89°16'54" East, a distance of 32.33 feet to a point on the westerly right-of-way line of Atlantic Drive (proposed private 65' right-of-way width); thence run along and coincident with the westerly right-of-way line of Atlantic Drive South 00°43'06" West, a distance of 267.17 feet to a point on the northerly right-of-way line of 17th Street; thence leave the westerly right-of-way line of Atlantic Drive and run along and coincident with the northerly right-of-way line of 17th Street North 89°16'54" West, a distance of 282.90 feet to a point, said point being the TRUE POINT OF BEGINNING.

Said tract containing 2.2191 acres and being more particularly shown as "Parcels "R-18 & H-1" Street Level" on that certain survey of "Parcels "R-18 & H-1" Street Level". The ATLANTIC STATION® Project, prepared for WN Atlantic Properties, LLC, Atlantic Town Center, L.L.C., Atlantic Station, L.L.C., District Owners' Association, Inc.; AIG Global Real Estate Investment Corp., SouthTrust Bank, Fremont Investment & Loan, and Chicago Title Insurance Company, prepared by Lowe Engineers, LLC, bearing the seal and certification of Wm. J. Daniel III, Georgia Registered Land Surveyor No. 2257, dated April 20, 2004, last revised August 6, 2004.

TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Second Amended and Restated Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Atlantic Redevelopment Site by Atlantic Station, L.L.C.,

a Delaware limited liability company, dated as of May 7, 2004, and made effective as of October 25, 2001, filed for record May 10, 2004 at 12:41 p.m., recorded in Deed Book 37538, Page 38, Records of Fulton County, Georgia; as affected by that certain Agreement Regarding Slag Depository by Atlantic Station, L.L.C., a Delaware limited liability company, dated April 3, 2002, filed for record April 4, 2002 at 3:41 p.m., recorded in Deed Book 32150, Page 616, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Parking Easement by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 178, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Garage Facilities Easement by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 195, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Building Site Covenants, Conditions and Restrictions for Parcels H-1 and R-18 of The Atlantic Station® Redevelopment Site by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 235, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Temporary Access Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 309, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Temporary Easement Agreement (Construction Staging) by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 330, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Reciprocal Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company, Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 344, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain View Easement Agreement by and between Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 361, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain View Easement Agreement by and between Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed

Book 37980, Page 370, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Utility Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 379, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for The District by Atlantic Station, L.L.C., a Delaware limited liability company, dated as of August 2, 2004, filed for record August 6, 2004 at 10:07 a.m., recorded in Deed Book 38171, Page 37, aforesaid Records; as affected by that certain Consent to Easement Encroachment (Air Gap Easement) by Atlantic Station, L.L.C., a Delaware limited liability company, dated as of August 2, 2004, filed for record August 23, 2004 at 12:31 p.m., recorded in Deed Book 38276, Page 132, aforesaid Records.

ALSO TOGETHER WITH: those rights, privileges and obligations appurtenant to the "Residential Component" arising under that certain Declaration of Easements and Cost Sharing Agreement between the Association and WN Atlantic Properties, LLC, and recorded in Deed Book ~~4477~~ Page 2, et seq., of the Official Records.

***The above-described property has previously been submitted to the condominium form of ownership through the filing of the Master Declaration. The Submitted Property constitutes only the Residential Component of Atlantic 17th, a Master Condominium, all limited common elements assigned to said Residential Component, and it's pro rata interest in the common elements of Atlantic 17th, a Master Condominium. Notwithstanding any provision to the contrary contained herein, the Submitted Property shall not include the Retail Component, or the Hotel Component of Atlantic 17th, a Master Condominium.**

EXHIBIT "B"**UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS
AND LIABILITIES FOR COMMON EXPENSES**

Unit Number	Percentage of Ownership
701	0.298%
702	0.292%
703	0.292%
704	0.208%
705	0.194%
706	0.193%
707	0.232%
709	0.202%
710	0.324%
713	0.232%
715	0.211%
716	0.324%
717	0.202%
718	0.193%
719	0.232%
720	0.208%
721	0.194%
722	0.292%
723	0.292%
724	0.298%
801	0.298%
802	0.292%
803	0.292%
804	0.197%
805	0.194%
806	0.226%
807	0.232%
808	0.193%
809	0.202%
810	0.228%
813	0.232%
815	0.211%
816	0.313%
817	0.202%
818	0.193%
819	0.232%
820	0.208%
821	0.194%
822	0.292%
823	0.292%
824	0.298%
901	0.298%
902	0.292%
903	0.292%
904	0.197%

905	0.194%
906	0.226%
907	0.232%
908	0.193%
909	0.202%
910	0.228%
913	0.232%
915	0.211%
916	0.313%
917	0.202%
918	0.193%
919	0.232%
920	0.208%
921	0.194%
922	0.292%
923	0.292%
924	0.298%
1001	0.298%
1002	0.292%
1003	0.292%
1004	0.197%
1005	0.194%
1006	0.226%
1007	0.232%
1008	0.193%
1009	0.202%
1010	0.228%
1013	0.232%
1015	0.211%
1016	0.313%
1017	0.202%
1018	0.193%
1019	0.232%
1020	0.208%
1021	0.194%
1022	0.292%
1023	0.292%
1024	0.298%
1101	0.298%
1102	0.292%
1103	0.292%
1104	0.197%
1105	0.194%
1106	0.226%
1107	0.232%
1108	0.193%
1109	0.202%
1110	0.228%
1113	0.232%
1115	0.211%
1116	0.313%
1117	0.202%
1118	0.193%

1119	0.232%
1120	0.208%
1121	0.194%
1122	0.292%
1123	0.292%
1124	0.298%
1201	0.298%
1202	0.292%
1203	0.292%
1204	0.197%
1205	0.194%
1206	0.226%
1207	0.232%
1208	0.193%
1209	0.202%
1210	0.228%
1213	0.232%
1215	0.211%
1216	0.313%
1217	0.202%
1218	0.193%
1219	0.232%
1220	0.208%
1221	0.194%
1222	0.292%
1223	0.292%
1224	0.298%
1301	0.298%
1302	0.292%
1303	0.292%
1304	0.197%
1305	0.194%
1306	0.226%
1307	0.232%
1308	0.193%
1309	0.202%
1310	0.228%
1313	0.232%
1315	0.211%
1316	0.313%
1317	0.202%
1318	0.193%
1319	0.232%
1320	0.208%
1321	0.194%
1322	0.292%
1323	0.292%
1324	0.298%
1401	0.298%
1402	0.292%
1403	0.292%
1404	0.197%
1405	0.194%

1406	0.226%
1407	0.232%
1408	0.193%
1409	0.202%
1410	0.228%
1413	0.232%
1415	0.211%
1416	0.313%
1417	0.202%
1418	0.193%
1419	0.232%
1420	0.208%
1421	0.194%
1422	0.292%
1423	0.292%
1424	0.298%
1501	0.298%
1502	0.292%
1503	0.292%
1504	0.197%
1505	0.194%
1506	0.226%
1507	0.232%
1508	0.193%
1509	0.202%
1510	0.228%
1513	0.232%
1515	0.211%
1516	0.313%
1517	0.202%
1518	0.193%
1519	0.232%
1520	0.208%
1521	0.194%
1522	0.292%
1523	0.292%
1524	0.298%
1601	0.298%
1602	0.292%
1603	0.292%
1604	0.197%
1605	0.194%
1606	0.226%
1607	0.232%
1608	0.193%
1609	0.202%
1610	0.228%
1613	0.232%
1615	0.211%
1616	0.313%
1617	0.202%
1618	0.193%
1619	0.232%

1620	0.208%
1621	0.194%
1622	0.292%
1623	0.292%
1624	0.298%
1701	0.298%
1702	0.490%
1703	0.487%
1706	0.226%
1707	0.232%
1708	0.193%
1709	0.202%
1710	0.228%
1713	0.232%
1715	0.211%
1716	0.313%
1717	0.202%
1718	0.193%
1719	0.232%
1720	0.208%
1722	0.292%
1723	0.487%
1724	0.298%
1801	0.298%
1802	0.490%
1803	0.487%
1806	0.226%
1807	0.232%
1808	0.193%
1809	0.202%
1810	0.228%
1813	0.232%
1815	0.211%
1816	0.313%
1817	0.202%
1818	0.193%
1819	0.232%
1820	0.208%
1822	0.292%
1823	0.487%
1824	0.298%
1901	0.298%
1902	0.490%
1903	0.487%
1906	0.226%
1907	0.232%
1908	0.193%
1909	0.202%
1910	0.228%
1913	0.232%
1915	0.211%
1916	0.313%
1917	0.202%

1918	0.247%
1919	0.232%
1920	0.222%
1922	0.292%
1923	0.487%
1924	0.298%
2001	0.298%
2002	0.490%
2003	0.487%
2006	0.226%
2007	0.232%
2008	0.193%
2009	0.202%
2010	0.228%
2013	0.232%
2015	0.211%
2016	0.313%
2017	0.202%
2018	0.247%
2019	0.232%
2020	0.222%
2022	0.292%
2023	0.487%
2024	0.298%
2101	0.298%
2102	0.490%
2103	0.487%
2106	0.226%
2107	0.232%
2108	0.193%
2109	0.202%
2110	0.228%
2113	0.232%
2115	0.211%
2116	0.313%
2117	0.202%
2118	0.247%
2119	0.232%
2120	0.222%
2122	0.292%
2123	0.487%
2124	0.298%
2201	0.298%
2202	0.490%
2203	0.487%
2206	0.226%
2207	0.232%
2208	0.193%
2209	0.202%
2210	0.228%
2213	0.232%
2215	0.211%
2216	0.313%

2217	0.202%
2218	0.247%
2219	0.232%
2220	0.222%
2222	0.292%
2223	0.487%
2224	0.298%
2301	0.298%
2302	0.490%
2303	0.487%
2306	0.226%
2307	0.232%
2308	0.193%
2309	0.202%
2310	0.228%
2313	0.232%
2315	0.211%
2316	0.313%
2317	0.202%
2318	0.247%
2319	0.232%
2320	0.222%
2322	0.292%
2323	0.487%
2324	0.298%
2401	0.298%
2402	0.490%
2403	0.487%
2406	0.226%
2407	0.232%
2408	0.193%
2409	0.202%
2410	0.228%
2413	0.437%
2416	0.313%
2417	0.202%
2418	0.247%
2419	0.232%
2420	0.222%
2422	0.292%
2423	0.487%
2424	0.298%
2501	0.589%
2502	0.579%
2506	0.226%
2507	0.232%
2508	0.193%
2509	0.202%
2510	0.228%
2513	0.437%
2516	0.313%
2517	0.202%
2518	0.272%

2519	0.232%
2521	0.589%
2522	0.579%
2601	0.476%
2602	0.472%
2606	0.226%
2607	0.232%
2608	0.193%
2609	0.202%
2610	0.228%
2613	0.437%
2616	0.313%
2617	0.202%
2618	0.272%
2619	0.232%
2621	0.476%
2622	0.472%
CU-1	0.020%

Note: The percentage of ownership is calculated based on each Unit's approximate square footage as a fraction of the total square footage of all the Units, as such sizes are shown on the Floor Plans.

EXHIBIT "C"**LEGAL DESCRIPTION OF ADDITIONAL PROPERTY**

All that tract or parcel of land lying and being in Land Lots 108 and 148 of the 17th District, Fulton County, Georgia and being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 108 and 148 of the 17th District, City of Atlanta, Fulton County, Georgia, lying at and above elevation 905.42 feet above "MSL" (which term means Mean Sea Level as determined by reference to the most current published datum by the U.S. Coast and Geodetic Service for Atlanta, Georgia, as of the date hereof), and being contained within the area formed by the boundary lines more particularly described as follows:

COMMENCE at Monument BFC 04 lying at State Plane Coordinates Northing 1,378,194.1172 and Easting 2,223,416.8937, NAD 83 West Zone, said monument also described as being located at the intersection of the easterly right-of-way line of Northside Drive (variable right-of-way width) and the southerly right-of-way line of the Norfolk Southern Railroad (variable right-of-way width); thence run North 68°57'34" East, a distance of 2,911.97 feet to a point on the southeasterly corner of a mitered intersection of the easterly right-of-way line of State Street (proposed variable right-of-way width) and the northerly right-of-way line of 17th Street (proposed 130' right-of-way width), said point being the TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence run along and coincident with said miter North 44°16'54" West, a distance of 14.14 feet to a point on the northwesterly corner of said miter; thence run along and coincident with the easterly right-of-way line of State Street North 00°43'05" East, a distance of 114.17 feet to a point; thence leave the easterly right-of-way line of State Street and run South 89°16'54" East, a distance of 170.70 feet to a point; thence run North 00°43'06" East, a distance of 65.00 feet to a point; thence run North 89°16'54" West, a distance of 170.70 feet to a point on the easterly right-of-way line of State Street; thence run along and coincident with the easterly right-of-way line of State Street North 00°43'05" East, a distance of 212.00 feet to a point; thence leave the easterly right-of-way line of State Street and run South 89°16'54" East, a distance of 212.48 feet to a point; thence run South 00°43'06" West, a distance of 98.75 feet to a point; thence run South 89°16'54" East, a distance of 17.67 feet to a point; thence run South 00°43'06" West, a distance of 4.83 feet to a point; thence run South 44°16'54" East, a distance of 43.02 feet to a point; thence run South 89°16'54" East, a distance of 32.33 feet to a point on the westerly right-of-way line of Atlantic Drive (proposed private 65' right-of-way width); thence run along and coincident with the westerly right-of-way line of Atlantic Drive South 00°43'06" West, a distance of 267.17 feet to a point on the northerly right-of-way line of 17th Street; thence leave the westerly right-of-way line of Atlantic Drive and run along and coincident with the northerly right-of-way line of 17th Street North 89°16'54" West, a distance of 282.90 feet to a point, said point being the TRUE POINT OF BEGINNING.

Said tract containing 2.2191 acres and being more particularly shown as "Parcels "R-18 & H-1" Street Level" on that certain survey of "Parcels "R-18 & H-1" Street Level", The ATLANTIC STATION® Project, prepared for WN Atlantic Properties, LLC, Atlantic Town Center, L.L.C., Atlantic Station, L.L.C., District Owners' Association, Inc.; AIG Global Real Estate Investment Corp., SouthTrust Bank, Fremont Investment & Loan, and Chicago Title Insurance Company, prepared by Lowe Engineers, LLC, bearing the seal and certification of Wm. J. Daniel III, Georgia Registered Land Surveyor No. 2257, dated April 20, 2004, last revised August 6, 2004.

TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Second Amended and Restated Master Declaration of Protective Covenants,

Conditions, Restrictions and Easements for The Atlantic Redevelopment Site by Atlantic Station, L.L.C., a Delaware limited liability company, dated as of May 7, 2004, and made effective as of October 25, 2001, filed for record May 10, 2004 at 12:41 p.m., recorded in Deed Book 37538, Page 38, Records of Fulton County, Georgia; as affected by that certain Agreement Regarding Slag Depository by Atlantic Station, L.L.C., a Delaware limited liability company, dated April 3, 2002, filed for record April 4, 2002 at 3:41 p.m., recorded in Deed Book 32150, Page 616, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Parking Easement by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 178, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Garage Facilities Easement by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 195, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Building Site Covenants, Conditions and Restrictions for Parcels H-1 and R-18 of The Atlantic Station® Redevelopment Site by Atlantic Station, L.L.C., a Delaware limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 235, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Temporary Access Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 309, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Temporary Easement Agreement (Construction Staging) by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 330, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Reciprocal Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company, Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 344, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain View Easement Agreement by and between Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 361, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain View Easement Agreement by and between Atlantic Town Center, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited

liability company, dated as of July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 370, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Utility Easement Agreement by and between Atlantic Station, L.L.C., a Delaware limited liability company and WN Atlantic Properties, LLC, a Georgia limited liability company, dated July 7, 2004, filed for record July 8, 2004 at 1:36 p.m., recorded in Deed Book 37980, Page 379, aforesaid Records.

ALSO TOGETHER WITH those easement rights, subject to any and all applicable limitations and obligations, arising under that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for The District by Atlantic Station, L.L.C., a Delaware limited liability company, dated as of August 2, 2004, filed for record August 6, 2004 at 10:07 a.m., recorded in Deed Book 38171, Page 37, aforesaid Records; as affected by that certain Consent to Easement Encroachment (Air Gap Easement) by Atlantic Station, L.L.C., a Delaware limited liability company, dated as of August 2, 2004, filed for record August 23, 2004 at 12:31 p.m., recorded in Deed Book 38276, Page 132, aforesaid Records.

***The above-described property has previously been submitted to the condominium form of ownership through the filing of the Master Declaration. The Additional Property constitutes only the Hotel Component of Atlantic 17th, a Master Condominium, all limited common elements assigned to said Hotel Component, and it's pro rata interest in the common elements of Atlantic 17th, a Master Condominium. Notwithstanding any provision to the contrary contained herein, the Additional Property shall not include the Retail Component or the Residential Component of Atlantic 17th, a Master Condominium.**

EXHIBIT "D"

Parking Space Assignments

[TO BE ASSIGNED]

EXHIBIT "E"

Storage Space Assignments

[TO BE ASSIGNED]

ARTICLES OF INCORPORATION

OF

ATLANTIC 17TH RESIDENTIAL CONDOMINIUM ASSOCIATION, INC.

1. Name. The name of the Corporation is Atlantic 17th Residential Condominium Association, Inc. ("Corporation" or "Association").

2. Duration. The Corporation shall have perpetual duration.

3. Applicable Statute. The Corporation is organized pursuant to the provisions of the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*, as amended

4. Purposes and Powers. The Corporation does not contemplate pecuniary gain or benefit, direct or indirect, to its members.

a. In way of explanation and not of limitation, the purposes for which it is formed are:

(i) to be and constitute the Association to which reference is made in the Declaration of Condominium for Atlantic 17th, A Residential Condominium, as may hereinafter be amended, filed of record in the Office of the Clerk of the Superior Court of Fulton County, Georgia ("Declaration"), to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the Bylaws of the Association ("Bylaws"), and as provided by law; and

(ii) to provide an entity for the furtherance of the interests of the owners of units in the condominium development as described in the Declaration.

b. In furtherance of its purposes, the Corporation shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors of the Association:

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Georgia in effect from time to time; and

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws, the Declaration, or the Georgia Condominium Act, including, without limitation, the following:

(A) to fix and to collect assessments or other charges to be levied against the units;

(B) to manage, control, operate, maintain, repair, and improve the common area and facilities, and property subsequently acquired by the Corporation, or any property owned by another, for which the Corporation, by rule, regulation, Declaration, or contract, has a right or duty to provide such services;

(C) to enforce covenants, conditions, and restrictions affecting any property to the extent the Association may be authorized to do;

(D) to engage in activities which will actively foster, promote, and advance the common interests of all owners of units at the development;

(E) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Corporation;

(F) to borrow money for any purpose as may be limited in the Declaration;

(G) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(H) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(I) to adopt, alter, and amend or repeal such bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such bylaws may not be inconsistent with or contrary to any provisions of the Declaration or the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, or the Georgia Nonprofit Corporation Code;

(J) to participate in mergers and consolidations with other nonprofit corporations upon the affirmative vote of at least two-thirds (2/3) of the total eligible vote of the members; and

(K) to provide any and all supplemental municipal services as may be necessary or proper.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 4 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 4.

5. Membership. The Corporation shall be a membership corporation without certificates or shares of stock. All unit owners, by virtue of their ownership of units in the Condominium, are members of the Association. The members shall be entitled to one (1) vote for each unit in which they hold the interest required for membership, in accordance with the Declaration.

6. Board of Directors. The affairs of the Corporation shall be governed by a Board of Directors, the number, qualification, and method of election of which shall be set in the Corporation's Bylaws. The method of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The board may delegate such operating authority to such companies, individuals, or committees as it, in its discretion, may determine. The initial Board of Directors of the Corporation shall have three (3) directors, and the names and addresses of the persons who are to serve as the initial directors are as follows:

NAME

ADDRESS

Michael T. Everly

817 West Peachtree Street, Suite 601
Atlanta, Georgia 30308

Billy R. Holley

817 West Peachtree Street, Suite 601
Atlanta, Georgia 30308

J. Kevin McDaniel

817 West Peachtree Street, Suite 601
Atlanta, Georgia 30308

7. Liability of Directors. To the fullest extent that the Georgia Nonprofit Corporation Code, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, no director of the Corporation shall be personally liable to the Corporation or its members for monetary damages for breach of duty of care or other duty as a director. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

8. Dissolution. The Corporation may be dissolved only pursuant to a resolution duly adopted by the Board of Directors and approved by the vote of not less than two-thirds (2/3) of the total eligible votes of the members.

9. Amendments. These Articles of Incorporation may be amended as provided by the Georgia Nonprofit Corporation Code pursuant to a resolution duly adopted by the Board of Directors and approved by the affirmative vote of the members of the Association entitled to cast at least two-thirds (2/3) of the votes which members present in person or by proxy cast at a meeting of the members of the Association or by members casting at least a majority of the total eligible votes of the members, whichever is less; provided that, no members shall be entitled to vote on any amendment to these Articles of Incorporation which is for the sole purpose of complying with the requirements of any governmental (including, without limitation, the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs) or government-sponsored enterprise authorized to fund, insure or guarantee Mortgages on individual units in the Condominium, which amendment may be adopted by the Board of Directors acting alone.

10. Incorporator. The name and address of the incorporator is as follows:

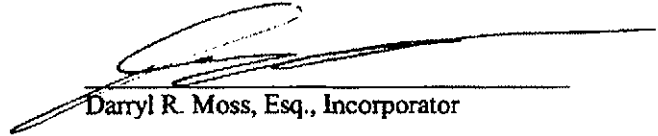
Darryl R. Moss, Esq.
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

11. Registered Agent and Office. The initial registered office of the Corporation is 817 West Peachtree Street, N.W., Suite 601, Atlanta, Georgia 30308, and the initial registered agent at such address is J. Tucker Alford.

12. Initial Principal Office. The mailing address of the initial principal office of the Corporation is 817 West Peachtree Street, N.W., Suite 601, Atlanta, Georgia 30308.

13. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Declaration.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation.



Darryl R. Moss, Esq., Incorporator

Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326